

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 3

In the Matter of:

Starbucks Corporation,	03-CA-285671, 03-CA-290555,
	03-CA-291157 03-CA-291196,
Employer,	03-CA-291197 03-CA-291199,
	03-CA-291202 03-CA-291377,
and	03-CA-291378 03-CA-291379,
	03-CA-291381 03-CA-291386,
Workers United,	03-CA-291395 03-CA-291399,
	03-CA-291408 03-CA-291412,
Charging Party.	03-CA-291416 03-CA-291418,
	03-CA-291423 03-CA-291431,
	03-CA-291434 03-CA-291725,
	03-CA-292284 03-CA-293362,
	03-CA-293469 03-CA-293489,
	03-CA-293528 03-CA-294336,
	03-CA-293546 03-CA-294341,
	03-CA-294303 03-CA-206200

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

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In the Matter of:

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Charging Party,

and

WORKERS UNITED,

Employer.

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The above-entitled matter came on for hearing, pursuant to notice, before **MICHAEL ROSAS**, Administrative Law Judge, at the National Labor Relations Board, Region 3, Robert H. Jackson United States Courthouse, Wyoming (5E) Courtroom, 2 Niagara Square, Buffalo, New York 14202, on **Tuesday, July 12, 2022, 9:01 a.m.**



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I N D E X

WITNESS

DIRECT

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VOIR DIRE

Michelle Eisen

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E X H I B I T SEXHIBITIDENTIFIEDIN EVIDENCE**General Counsel:**

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P R O C E E D I N G S

JUDGE ROSAS: Good morning. General Counsel, you had something?

MS. CACACCIO: Yes, Your Honor. Before we begin this morning, General Counsel would like to make a motion. As you know, five weeks ago, on June 6th, counsel for the General Counsel issued a comprehensive subpoena duces tecum that was returnable yesterday. On June 28th, two weeks ago today, counsel for the General Counsel issued a second smaller duces tecum subpoena that was also returnable yesterday. Your Honor has now upheld those subpoenas three times in the face of Respondent's petitions to revoke.

To date, Respondents have yet to produce a single document to the General Counsel. I understand the train is leaving and has left the station, but it seems that, at this point, there's no luggage on board. As you know, Respondent has an obligation to begin a good-faith effort to gather responsive documents upon service of a subpoena, regardless of anticipated rulings on petitions to revoke. One need look no further than the case of McAllister Towing and the case of San Luis Trucking to support the proposition.

Yesterday, Respondent asserted for the first time they would not be producing any records until the end of July at the earliest, which will be two months after the first subpoena issued and three weeks from the General Counsel's testimony.

1     Moreover, Respondent also asserted yesterday that they will be  
2     defying your order and not producing a privilege log by July  
3     18th.

4             Similarly, when we issued our first duces tecum subpoena  
5     we issued a corresponding ad testificandum subpoena for Howard  
6     Schultz or the custodian of records. As no one appeared  
7     yesterday to comply with that subpoena, accordingly, we are  
8     requesting evidentiary sanctions. Specifically, we are  
9     requesting that Respondent be barred from introducing  
10    responsive unproduced documents into the record. There is,  
11    again, ample legal support for such a request, which again, I  
12    look to IATSE Local 720, Shamrock Foods Company and MD Miller  
13    Trucking and Perdue Farms.

14            We are also requesting that an adverse inference be drawn  
15    given Respondent's total noncompliance. Again, there is ample  
16    legal support for such a request. We can look at Shamrock  
17    Foods, Sparks Restaurant, Metro West Ambulance Service, and  
18    Essex Valley Visiting Nurses Association. The General Counsel  
19    respectfully requests that you grant these evidentiary  
20    sanctions given Respondent's ongoing and total noncompliance  
21    with the subpoena. Thank you.

22            JUDGE ROSAS: Quick response?

23            MS. PHIPPS POLITO: Your Honor, we ask that the motion be  
24    denied. In the petition to revoke we have outlined clearly the  
25    efforts that we have undertaken to start collecting the

1 documents. We indicated a category of documents that we would  
2 be willing to provide subject to stipulation. For the first  
3 time yesterday in this courtroom, we heard that General Counsel  
4 would agree to stip -- those stipulations and -- and actually  
5 read those into the record. We have been diligently working to  
6 comply on producing the categories of documents that we said we  
7 could comply. It's significant. It's overwhelming. If we  
8 were in a federal court I would have 9, 12, 18 months to gather  
9 those documents. We are working on them diligently. We  
10 provided the petition to revoke. We ask for the continuance in  
11 light of the fact that the discovery has not yet been  
12 disclosed, despite our due diligence. And we indicated  
13 yesterday to this court that we anticipate being able to get  
14 those category of documents that we agreed to by the end of  
15 this month. So for those reasons, we ask that the motion be  
16 denied.

17 JUDGE ROSAS: All right. Well, counsel, I was going to  
18 mention today that have -- having reviewed the -- the materials  
19 further yesterday, looked at the record, looked at the  
20 arguments, the opening statements -- I can tell you from your  
21 statements, from your concessions -- that there is information  
22 that should be flowing, at some point relatively soon. The  
23 date that I put in my order, of July 18th, for the submission  
24 of equivalence law -- well, that's a -- that's a significant  
25 interval. By that date, common sense suggests -- while I'm



1 denying the General Counsel's motion at this time because the  
2 train has not arrived at the second stop yet. We're still --  
3 we're still moving along here, and we're getting settled.

4 But I can tell you that there should be some growing  
5 disclosure -- some significant growing disclosure by Monday.  
6 Okay. That's -- that's what common sense suggests to me. All  
7 right? So it's premature at this time. The motion is denied.  
8 Off the record.

9 (Off the record at 9:06 a.m.)

10 MS. CACACCIO: Yes, Judge. Michelle Eisen's back on the  
11 stand.

12 Whereupon,

13 **MICHELLE EISEN**

14 having been previously sworn, was called as a witness herein  
15 and was examined and testified as follows:

16 **RESUMED DIRECT EXAMINATION**

17 Q BY MS. CACACCIO: Ms. Eisen, have you talked to anyone  
18 about your testimony between yesterday and today?

19 A I have not.

20 Q And if I play you this audio recording, will you be able  
21 to identify it?

22 A I would.

23 MS. CACACCIO: For the purposes of the record, my screen  
24 is being broadcast and should be -- if you guys can't see my  
25 screen, please tell me. It's being broadcast to just about

1 everyone in the room. The recording itself is 55 minutes and  
2 56 seconds. So what I'm going to do is I'm going to play the  
3 recording, and I'm going to stop it to have the witness  
4 identify speakers as we go through.

5 JUDGE ROSAS: What have we labeled it for identification?

6 MS. CACACCIO: GC Exhibit 26(a), Your Honor.

7 MS. PHIPPS POLITO: Your Honor, on behalf of Respondent,  
8 we argued the objections yesterday, so I want to continue to  
9 note our objection to the introduction of this audio recording  
10 into evidence at this time.

11 JUDGE ROSAS: There are always continuing objections.

12 (Audio played at 9:13 a.m., ending at 9:14 a.m.)

13 Q BY MS. CACACCIO: What's happening there, Michelle?

14 A We are entering the conference room, just sitting down.

15 Q And who was talking about weddings?

16 A That was myself and Courtney Stroeher, another partner I  
17 don't (indiscernible, simultaneous speech).

18 (Audio played at 9:14 a.m., ending at 9:14 a.m.)

19 Q Who's that?

20 A That's me.

21 Q And we're at 12 seconds on the recording.

22 (Audio played at 9:14 a.m., ending at 9:14 a.m.)

23 Q Who's talking about samplers?

24 A That's me as well.

25 MS. PHIPPS POLITO: Judge, if I may? Number one, I can

1       barely hear a single thing that's being played.

2               JUDGE ROSAS:   Can you play it louder?

3               MS. CACACCIO:   No, Judge.

4               MS. PHIPPS POLITO:   Number two, the -- they -- the Board  
5       has a submitted a 26(b) (phonetic throughout) transcript, which  
6       I am, because of my hearing loss, was trying to utilize to  
7       assist the process.   But this portion of the testimony's not  
8       even in the transcript.   We're objecting to the transcript  
9       anyway, so I don't know what's to be done, but I can't hear  
10      what's being said.   I have -- I have no idea what this  
11      recording is.   It's not --

12              MS. CACACCIO:   Your Honor --

13              MS. PHIPPS POLITO:   -- (indiscernible, simultaneous  
14      speech) 26(b) -- maybe it's the beginning.   Maybe it's the full  
15      recording, which goes to my objection yesterday.   I -- I don't  
16      know what recording this is, who it came from.   If it's the one  
17      that was emailed, if it's one from her phone -- I have no idea,  
18      and I can't hear it, and there's multiple speaking, and she's  
19      only identifying some of them.

20              JUDGE ROSAS:   How much of the recording is untranscribed?

21              MS. CACACCIO:   So we submitted the entire recording to be  
22      transcribed, but for whatever reason, the court reporting  
23      service didn't transcribe anything before the meeting started.  
24      But the recording itself is the evidence we're admitting.  
25      We're not admitting the transcript as evidence.   The recording

1 is the evidence. The transcription's just an aid that was  
2 hopeful to be used to aid in the proceeding.

3 JUDGE ROSAS: Approximately how much time are we talking  
4 about that's being played -- or going to be played -- that is  
5 untranscribed?

6 MS. CACACCIO: Give me just one second.

7 (Audio played at 9:16 a.m., ending at 9:16 a.m.)

8 MS. CACACCIO: Less than two minutes, Judge.

9 MS. PHIPPS POLITO: Judge, again, for the record, I can't  
10 hear what's being said, number one. Number two, she's clearly  
11 not identifying every speaker on this recording. It's  
12 completely inappropriate to submit a recording of an audio  
13 conversation where we don't know who's speaking about what at  
14 any given time. It completely lacks foundation. I'm going to  
15 restate my objection from yesterday. The witness is on the  
16 stand. She can testify as to what she heard that day and  
17 why -- they can discuss why they think it's relevant to these  
18 proceedings. I can't understand the recording, and she clearly  
19 is not able to identify every person that's speaking. Every  
20 time that that happens I'm going to have to move to strike that  
21 from the record. And it's just convoluting the record at this  
22 point.

23 JUDGE ROSAS: Okay.

24 MS. CACACCIO: May I go?

25 JUDGE ROSAS: No. So -- can you -- at this point, since

1 counsel's unable to follow with the aid -- because that's --  
2 that's the best we can do at this point. I mean, the evidence  
3 that's being tendered is the evidence. It's the best evidence  
4 based upon the offer that's been made and the foundational  
5 testimony that's been offered. So can you just accelerate it  
6 or just go to the part where it starts at this point that is  
7 transcribed?

8 MS. CACACCIO: Yes, Judge.

9 JUDGE ROSAS: Okay.

10 MS. CACACCIO: I will --

11 JUDGE ROSAS: Counsel, we're going to basically just -- I  
12 don't know if she's going to play it on play mode or if she can  
13 accelerate it. But basically, we can resume the fight when she  
14 starts playing the part that is transcribed.

15 Now, let me ask you. Are you able to hear any of it  
16 sufficiently enough to follow in the transcript?

17 MS. PHIPPS POLITO: I -- I'm go -- I'm going to try.  
18 One -- once we get there, Judge, I will let you know.

19 JUDGE ROSAS: Okay.

20 MS. PHIPPS POLITO: Thank you.

21 (Audio played at 9:18 a.m., ending at 9:18 a.m.)

22 Q BY MS. CACACCIO: Who is that first speaker?

23 A That was Allyson Peck.

24 (Audio played at 9:18 a.m., ending at 9:18 a.m.)

25 Q And who's that?

1 A Can you play that again?

2 Q Yeah. I'm sorry. I'm going to play it a little longer.

3 (Audio played at 9:18 a.m., ending at 9:18 a.m.)

4 Q Who said, "Yeah, sorry about that"?

5 A That was Courtney Stroeher.

6 (Audio played at 9:18 a.m., ending at 9:19 a.m.)

7 Q Who said, "sure"?

8 A That's me.

9 (Audio played at 9:19 a.m., ending at 9:19 a.m.)

10 Q Who said, "Do you want to kick us off"?

11 A Can you go back?

12 Q Yep.

13 (Audio played at 9:20 a.m., ending at 9:20 a.m.)

14 A That sounds like Peck again at 51 where I came from.

15 (Audio played at 9:20 a.m., ending at 9:20 a.m.)

16 Q Who's that?

17 A Cameron Leading (phonetic).

18 (Audio played at 9:20 a.m., ending at 9:20 a.m.)

19 Q Who says "thanks"?

20 A Allyson Peck as well.

21 MS. PHIPPS POLITO: Judge, I'd like --

22 (Audio played at 9:20 a.m., ending at 9:20 a.m.)

23 MS. PHIPPS POLITO: I'd like to note for the record that  
24 the transcript has that as an unidentified speaker, so it's not  
25 consistent with what the witness's testimony is.

1 JUDGE ROSAS: Noted. Next.

2 (Audio played at 9:20 a.m., ending at 9:21 a.m.)

3 Q BY MS. CACACCIO: Who's that?

4 A Myself.

5 (Audio played at 9:21 a.m., ending at 9:21 a.m.)

6 Q Who says, "well"?

7 A Can you back up?

8 (Audio played at 9:21 a.m., ending at 9:22 a.m.)

9 A I think it's -- I think she's saying, "wow", not "well".  
10 And it's -- it's Allyson Peck.

11 (Audio played at 9:22 a.m., ending at 9:22 a.m.)

12 Q Who was that?

13 A That was also myself.

14 (Audio played at 9:22 a.m., ending at 9:22 a.m.)

15 Q Who was that?

16 A That was Allyson Peck.

17 (Audio played at 9:22 a.m., ending at 9:22 a.m.)

18 Q Who's that?

19 A Courtney Stroeher.

20 (Audio played at 9:23 a.m., ending at 9:23 a.m.)

21 Q Who's that?

22 A That was Rossann Williams.

23 (Audio played at 9:23 a.m., ending at 9:23 a.m.)

24 Q And who was that?

25 A Rossann Williams.

1 (Audio played at 9:24 a.m., ending at 9:24 a.m.)

2 Q Who said -- who said, "Thank you -- thank you for being  
3 here today"?

4 A Rossann Williams.

5 (Audio played at 9:24 a.m., ending at 9:24 a.m.)

6 Q Who's that?

7 A Austin Reed.

8 Q And who is he?

9 A A partner at Elmwood.

10 (Audio played at 9:24 a.m., ending at 9:24 a.m.)

11 Q Who's that?

12 A Deanna Pusitier.

13 Q And who is she?

14 A I believe she is the regional director for the Elmwood  
15 store.

16 (Audio played at 9:24 a.m., ending at 9:24 a.m.)

17 Q Who's that?

18 A That's (audio interference).

19 (Audio played at 9:25 a.m., ending at 9:25 a.m.)

20 Q Who's that?

21 A Rossann Williams.

22 (Audio played at 9:25 a.m., ending at 9:25 a.m.)

23 Q Who's that?

24 A That's Blue (phonetic throughout). I don't -- I think you  
25 pronounce his last name DeJulia (phonetic throughout) --



1 something along those lines.

2 (Audio played at 9:25 a.m., ending at 9:29 a.m.)

3 Q Who gave that speech?

4 A That was Allyson Peck.

5 (Audio played at 9:29 a.m., ending at 9:29 a.m.)

6 Q Who's that?

7 A Rossann Williams.

8 (Audio played at 9:30 a.m., ending at 9:38 a.m.)

9 Q Who gave that speech?

10 A Rossann Williams.

11 Q We're at 18:04 on the recording.

12 (Audio played at 9:38 a.m., ending at 9:38 a.m.)

13 Q Do you know who this is?

14 A Deanna Pusitier.

15 (Audio played at 9:38 a.m., ending at 9:41 a.m.)

16 Q So who gave the speech prior to the -- the voice we just  
17 heard?

18 A Deanna Pusitier.

19 Q And do you know who just started speaking?

20 A Allyson Peck.

21 Q We're at 21:21 on the recording.

22 (Audio played at 9:42 a.m., ending at 9:44 a.m.)

23 Q Who is that?

24 A Rossann Williams.

25 Q We're at 24:03 on the recording.



1 (Audio played at 9:45 a.m., ending at 9:45 a.m.)

2 Q Who's that?

3 A That's me.

4 (Audio played at 9:45 a.m., ending at 9:46 a.m.)

5 Q Who gave that speech?

6 A That was me.

7 Q We're at 25:53 on the recording.

8 (Audio played at 9:46 a.m., ending at 9:47 a.m.)

9 Q Do you know who that was?

10 A Breanna (phonetic throughout).

11 Q And we're at 26:25 in the recording. And who is -- who is  
12 that person you just said?

13 A Breanna's another partner at Elmwood.

14 (Audio played at 9:47 a.m., ending at 9:49 a.m.)

15 Q Who was talking there?

16 A That was Rossann Williams.

17 Q We're at 27:58 on the recording.

18 (Audio played at 9:49 a.m., ending at 9:49 a.m.)

19 Q Who's that?

20 A That's me.

21 (Audio played at 9:49 a.m., ending at 9:50 a.m.)

22 Q Who is -- who gave that speech?

23 A That was me.

24 Q We're at 29:09 in the recording.

25 (Audio played at 9:50 a.m., ending at 9:50 a.m.)

- 1 Q Who said the sentence that ended with "bad news"?
- 2 A That was me.
- 3 Q Okay. And do you know who responded to that?
- 4 A Can you take it back?
- 5 Q Yep. Oh. I went way --
- 6 MS. PHIPPS POLITO: I don't think it was played yet.
- 7 (Audio played at 9:51 a.m., ending at 9:51 a.m.)
- 8 Q BY MS. CACACCIO: Do you also -- know who that is?
- 9 A I think that was Allyson Peck.
- 10 (Audio played at 9:51 a.m., ending at 9:52 a.m.)
- 11 Q Who gave that speech?
- 12 A That was also me.
- 13 Q We're at 30:13.
- 14 (Audio played at 9:52 a.m., ending at 9:54 a.m.)
- 15 Q Who gave that speech?
- 16 A That was also me.
- 17 Q We're at 31:57 on the recording.
- 18 (Audio played at 9:54 a.m., ending at 9:54 a.m.)
- 19 Q Who's that?
- 20 A That's Allyson Peck.
- 21 Q We're at 32:41 on the recording.
- 22 (Audio played at 9:54 a.m., ending at 9:55 a.m.)
- 23 Q Who gave that speech?
- 24 A That was me.
- 25 Q We're at 32:50 on the recording.

1 (Audio played at 9:55 a.m., ending at 9:56 a.m.)

2 Q Who gave -- who was just talking?

3 A Courtney Stroeher.

4 Q We're at 33:51 on the recording.

5 (Audio played at 9:56 a.m., ending at 9:56 a.m.)

6 Q Who's that?

7 A That's also Courtney Stroeher.

8 (Audio played at 9:56 a.m., ending at 9:56 a.m.)

9 Q Who asked that question?

10 A That was Rossann Williams.

11 Q Okay.

12 (Audio played at 9:56 a.m., ending at 9:58 a.m.)

13 Q Who's -- who was talking -- hold on. Let me back it up a  
14 second.

15 (Audio played at 9:58 a.m., ending at 9:58 a.m.)

16 Q Let me jump ahead a second. I went too far.

17 (Audio played at 9:58 a.m., ending at 9:59 a.m.)

18 Q Who's that?

19 A That was Courtney Stroeher.

20 Q We're at 35:36.

21 (Audio played at 9:59 a.m., ending at 9:59 a.m.)

22 Q Do you know who said that?

23 A Rossann Williams.

24 (Audio played at 9:59 a.m., ending at 10:00 a.m.)

25 Q Who's that?

- 1 A Courtney Stroeher.
- 2 Q We're at 36:11.
- 3 (Audio played at 10:00 a.m., ending at 10:00 a.m.)
- 4 Q Who said that?
- 5 A An individual who that's been properly trained with me.
- 6 (Audio played at 10:00 a.m., ending at 10:01 a.m.)
- 7 Q Who's that?
- 8 A Courtney Stroeher.
- 9 Q We're at 36:39 in the recording.
- 10 (Audio played at 10:01 a.m., ending at 10:01 a.m.)
- 11 Q Who's that?
- 12 A Rossann Williams.
- 13 Q We're at 36:50.
- 14 (Audio played at 10:01 a.m., ending at 10:01 a.m.)
- 15 Q Who's that?
- 16 A Courtney Stroeher.
- 17 (Audio played at 10:01 a.m., ending at 10:02 a.m.)
- 18 Q Who's that?
- 19 A The interjecting voice or the voice that was just
- 20 speaking?
- 21 Q The voice that was just speaking.
- 22 A Courtney Stroeher.
- 23 Q And was the interjecting voice?
- 24 A Rossann Williams.
- 25 Q We're at 37:20.

1 (Audio played at 10:02 a.m., ending at 10:02 a.m.)

2 Q Who's that?

3 A Courtney Stroeher.

4 (Audio played at 10:02 a.m., ending at 10:02 a.m.)

5 Q Who is the interjecting voice?

6 A Rossann Williams.

7 Q And who was speaking before that?

8 A Courtney Stroeher.

9 Q We're at 37:56 in the recording.

10 MS. PHIPPS POLITO: I -- I'm sorry. Can we just pause for  
11 one minute? You just said that -- when you said, "So we saw  
12 our DM". Who -- who did you say was speaking then?

13 THE WITNESS: Can you say that line again?

14 MS. CACACCIO: I'm going to play the recording back.

15 MS. PHIPPS POLITO: That would be helpful.

16 (Audio played at 10:03 a.m., ending at 10:03 a.m.)

17 MS. CACACCIO: That was too far back.

18 (Audio played at 10:03 a.m., ending at 10:03 a.m.)

19 Q BY MS. CACACCIO: Who's that?

20 A Courtney Stroeher.

21 Q We're at 37:30.

22 (Audio played at 10:03 a.m., ending at 10:04 a.m.)

23 Q We're stopping at 37:52. Who was that?

24 A Courtney Stroeher.

25 (Audio played at 10:04 a.m., ending at 10:04 a.m.)

- 1 Q Do you know who says, "I don't think I've had a fair  
2 assessment"?
- 3 A Courtney Stroeher.
- 4 (Audio played at 10:04 a.m., ending at 10:04 a.m.)
- 5 Q Who just started talking?
- 6 A Rossann Williams.
- 7 Q We're at 37:58.
- 8 (Audio played at 10:04 a.m., ending at 10:04 a.m.)
- 9 Q Who ended the sentence with "DM"?
- 10 A Rossann Williams.
- 11 Q And who's the interjecting voice?
- 12 A Courtney Stroeher.
- 13 (Audio played at 10:04 a.m., ending at 10:04 a.m.)
- 14 Q Do you know who said that sentence?
- 15 A Rossann Williams.
- 16 (Audio played at 10:04 a.m., ending at 10:04 a.m.)
- 17 Q Do you know who the "yeah" is?
- 18 A Courtney Stroeher.
- 19 (Audio played at 10:04 a.m., ending at 10:04 a.m.)
- 20 Q Who ended the sentence with(audio interference)?
- 21 A Rossann Williams.
- 22 Q And who was the interjecting voice?
- 23 A Courtney Stroeher.
- 24 Q We're at 38:14 on the recording.
- 25 (Audio played at 10:04 a.m., ending at 10:05 a.m.)

1 Q Who said that sentence?

2 A Rossann Williams.

3 (Audio played at 10:05 a.m., ending at 10:05 a.m.)

4 Q Who ended the sentence with "just asking for  
5 similarities"?

6 A Rossann Williams.

7 Q And who's the interjecting voice?

8 A Courtney Stroeher.

9 Q We're at 38:35 in the recording.

10 (Audio played at 10:05 a.m., ending at 10:05 a.m.)

11 Q What's an ASM?

12 A Assistant store manager.

13 Q And who is talking?

14 MS. PHIPPS POLITO: Judge, I'm going to object. We're  
15 either listening to the audio recording -- the witness is  
16 identifying people, but she's not going to start explaining  
17 what's in there. That's a completely improper question.

18 JUDGE ROSAS: That was -- that term was used in the  
19 meeting?

20 MS. CACACCIO: The -- the witness -- yeah, Judge. The  
21 witness just used the word -- the recording just has the word  
22 ASM, and if this witness knows what that acronym is she should  
23 be able to testify to it.

24 JUDGE ROSAS: Overruled. If you know.

25 A Assistant store manager.



1 Q BY MS. CACACCIO: And who was talking?

2 A Rossann Williams.

3 (Audio played at 10:06 a.m., ending at 10:06 a.m.)

4 Q What's a "DM"?

5 A District manager.

6 MS. PHIPPS POLITO: Judge, I'm just going to note the same  
7 objection. She -- we are listening to an audio recording. We  
8 are not asking back and forth questions. She can -- counsel  
9 can asks those questions later on -- what these acronyms mean.  
10 And we're also talking about someone else that's speaking. And  
11 it's just interfering with this whole subject of this audio  
12 recording, which, my understanding was, we were going to play  
13 the whole thing in full, and figure out who's speaking.

14 JUDGE ROSAS: Overruled. If you know.

15 A DM stands for district manager.

16 (Audio played at 10:06 a.m., ending at 10:07 a.m.)

17 Q BY MS. CACACCIO: Who ended the sentence with "the  
18 similarities make sense to me"?

19 A Rossann Williams.

20 Q And who was the interjecting voice?

21 A Courtney Stroehar.

22 MS. CACACCIO: We're at 39:19 on the recording.

23 (Audio played at 10:07 a.m., ending at 10:07 a.m.)

24 Q BY MS. CACACCIO: Pause. Who says that?

25 A Courtney Stroehar.

1 Q Who says -- who interjected?

2 A That was me.

3 MS. CACACCIO: We're at 39:30 on the recording.

4 (Audio played at 10:08 a.m., ending at 10:08 a.m.)

5 MS. CACACCIO: Counsel, did you say something? No, okay.

6 (Audio played at 10:08 a.m., ending at 10:08 a.m.)

7 Q BY MS. CACACCIO: Who's talking right now?

8 A Myself.

9 MS. CACACCIO: We're at 39:53 in the recording.

10 (Audio played at 10:08 a.m., ending at 10:09 a.m.)

11 Q BY MS. CACACCIO: Who just gave that speech?

12 A That was me.

13 MS. CACACCIO: We're at 40:53 on the recording.

14 (Audio played at 10:09 a.m., ending at 10:09 a.m.)

15 Q BY MS. CACACCIO: Who's that?

16 A Deanna Pusatier.

17 (Audio played at 10:09 a.m., ending at 10:09 a.m.)

18 Q BY MS. CACACCIO: Who's speaking there?

19 A Deanna Pusatier.

20 (Audio played at 10:09 a.m., ending at 10:09 a.m.)

21 Q BY MS. CACACCIO: Who started talking there?

22 A I think that's me, but I need to hear it a little bit  
23 more.

24 (Audio played at 10:10 a.m., ending at 10:10 a.m.)

25 Q BY MS. CACACCIO: Do you know who that is?

1 A That's me.

2 (Audio played at 10:10 a.m., ending at 10:10 a.m.)

3 Q BY MS. CACACCIO: Who's that?

4 A That's me.

5 MS. CACACCIO: We're at 41:34.

6 (Audio played at 10:10 a.m., ending at 10:10 a.m.)

7 Q BY MS. CACACCIO: Do -- were you able to hear the  
8 interjecting voices there?

9 A If you can take it back, I may be able to.

10 (Audio played at 10:10 a.m., ending at 10:11 a.m.)

11 A I'm sorry, I can't hear that.

12 Q BY MS. CACACCIO: Okay.

13 (Audio played at 10:11 a.m., ending at 10:11 a.m.)

14 Q BY MS. CACACCIO: Who's that?

15 A That, I believe, is Austin Reed (phonetic throughout).

16 Q Who is the one that just gave a speech?

17 A That was myself.

18 Q And who was the interjecting voice?

19 A Austin Reed.

20 (Audio played at 10:11 a.m., ending at 10:12 a.m.)

21 Q BY MS. CACACCIO: Who was that?

22 A That was me.

23 MS. CACACCIO: We're at 42:52 in the recording.

24 (Audio played at 10:12 a.m., ending at 10:12 a.m.)

25 Q BY MS. CACACCIO: What is IMS?

1 A It is an inventory management system.

2 (Audio played at 10:13 a.m., ending at 10:13 a.m.)

3 Q BY MS. CACACCIO: Who was just giving that speech?

4 A That was myself.

5 MS. CACACCIO: We're at 44:09 on the recording.

6 (Audio played at 10:14 a.m., ending at 10:14 a.m.)

7 Q BY MS. CACACCIO: Do you know who's asking that question?

8 A Deanna Pusatier.

9 (Audio played at 10:14 a.m., ending at 10:14 a.m.)

10 Q BY MS. CACACCIO: Who's that?

11 A That's me.

12 (Audio played at 10:14 a.m., ending at 10:14 a.m.)

13 Q BY MS. CACACCIO: Who responded to you?

14 A Deanna Pusatier.

15 (Audio played at 10:14 a.m., ending at 10:15 a.m.)

16 Q BY MS. CACACCIO: Who just gave that speech?

17 A That was me.

18 MS. CACACCIO: We're at 45:16 on the recording.

19 (Audio played at 10:15 a.m., ending at 10:15 a.m.)

20 Q BY MS. CACACCIO: Do you know who that is?

21 A Rossann Williams.

22 (Audio played at 10:15 a.m., ending at 10:15 a.m.)

23 Q BY MS. CACACCIO: Who's that?

24 A Can I hear a little bit more of that?

25 (Audio played at 10:15 a.m., ending at 10:16 a.m.)

1 Q BY MS. CACACCIO: Do you know who that is?

2 A I think that's me.

3 (Audio played at 10:16 a.m., ending at 10:16 a.m.)

4 Q BY MS. CACACCIO: Who's talking there?

5 A Courtney Stroeher.

6 MS. CACACCIO: We're at 45:38 on the recording.

7 (Audio played at 10:16 a.m., ending at 10:16 a.m.)

8 Q BY MS. CACACCIO: Who's that?

9 A Courtney Stroeher.

10 MS. CACACCIO: We're at 45:44.

11 (Audio played at 10:16 a.m., ending at 10:16 a.m.)

12 Q BY MS. CACACCIO: Who's that?

13 A Courtney Stroeher.

14 MS. CACACCIO: We're at 45:59.

15 (Audio played at 10:16 a.m., ending at 10:17 a.m.)

16 Q BY MS. CACACCIO: Who's that?

17 A Courtney Stroeher.

18 MS. CACACCIO: We're at 46:15.

19 (Audio played at 10:17 a.m., ending at 10:17 a.m.)

20 Q BY MS. CACACCIO: Who's that?

21 A Rossann Williams.

22 MS. CACACCIO: We're at 46:20.

23 (Audio played at 10:17 a.m., ending at 10:18 a.m.)

24 Q BY MS. CACACCIO: Who was giving that speech?

25 A Rossann Williams.

1 Q Do you know who interjected?

2 A At the end, that was Brianna Marcina (phonetic  
3 throughout).

4 MS. CACACCIO: Are you missing a page because I have a  
5 single page. Do you have everything you need?

6 MS. POLITO: I'm -- I'm sorry.

7 MS. CACACCIO: Are you able to follow along?

8 MS. POLITO: Mostly.

9 MS. CACACCIO: Okay, my -- my -- my copy is missing a  
10 page, so if you're missing a page then --

11 MS. POLITO: Oh.

12 JUDGE ROSAS: Off the record.

13 (Off the record at 10:19 a.m.)

14 **RESUMED DIRECT EXAMINATION**

15 Q BY MS. CACACCIO: Do you know who that is?

16 A Brianna Marcina.

17 (Audio played at 10:19 a.m., ending at 10:19 a.m.)

18 Q BY MS. CACACCIO: Who's that?

19 A Brianna Marcina.

20 MS. CACACCIO: We're at 47:57.

21 (Audio played at 10:19 a.m., ending at 10:20 a.m.)

22 Q BY MS. CACACCIO: Who was that?

23 A Brianna Marcina.

24 MS. CACACCIO: We're at 48:31 on the recording.

25 (Audio played at 10:20 a.m., ending at 10:21 a.m.)

1 Q BY MS. CACACCIO: Who was talking?

2 A Brianna Marcina.

3 MS. CACACCIO: Sorry, we're at 49:17.

4 (Audio played at 10:21 a.m., ending at 10:21 a.m.)

5 Q BY MS. CACACCIO: Do you know who said "we can address  
6 that"?

7 A Rossann Williams.

8 (Audio played at 10:21 a.m., ending at 10:21 a.m.)

9 Q BY MS. CACACCIO: Do you know who that was?

10 A Deanna Pusatier.

11 (Audio played at 10:21 a.m., ending at 10:21 a.m.)

12 Q BY MS. CACACCIO: Do you know who says another -- probably  
13 another couple minutes here?

14 A If you can play it back, I'm pretty sure it's Allyson  
15 Peck. I just want to hear it.

16 (Audio played at 10:21 a.m., ending at 10:22 a.m.)

17 A That was Al -- Al -- Allyson Peck.

18 (Audio played at 10:22 a.m., ending at 10:22 a.m.)

19 MS. POLITO: Sorry, excuse me.

20 JUDGE ROSAS: Hold on.

21 MS. POLITO: Can you pause? What -- what portion of the  
22 record are you at because now I'm lost. When you said Allyson  
23 Peck --

24 MS. CACACCIO: We're at the top of page 45.

25 MS. POLITO: And --

1 MR. BALSAM: So -- so from our transcript, we have  
2 probably another couple more minutes, and then it jumps into --

3 JUDGE ROSAS: All right, off the record.

4 (Off the record at 10:22 a.m.)

5 (Audio played at 10:23 a.m., ending at 10:23 a.m.)

6 MS. POLITO: I think we're good.

7 MS. CACACCIO: Okay.

8 MS. POLITO: I think we're on the same --

9 MS. CACACCIO: Okay.

10 MS. POLITO: -- page now.

11 **RESUMED DIRECT EXAMINATION**

12 Q BY MS. CACACCIO: Do you know who just started to talk?

13 A Deanna Pusatier.

14 MS. CACACCIO: We're at 49:33 on the recording.

15 (Audio played at 10:24 a.m., ending at 10:24 a.m.)

16 Q BY MS. CACACCIO: Who was that?

17 A Deanna Pusatier.

18 MS. CACACCIO: We're at 50:25 in the recording.

19 (Audio played at 10:24 a.m., ending at 10:25 a.m.)

20 Q BY MS. CACACCIO: Who's that?

21 A Rossann Williams.

22 MS. CACACCIO: We're at 50:27.

23 (Audio played at 10:25 a.m., ending at 10:25 a.m.)

24 Q BY MS. CACACCIO: Who's that?

25 A Deanna Pusatier.



1 (Audio played at 10:25 a.m., ending at 10:25 a.m.)

2 Q BY MS. CACACCIO: Who's that?

3 A Allyson Peck.

4 MS. CACACCIO: We're at 50:48 on the recording.

5 (Audio played at 10:25 a.m., ending at 10:25 a.m.)

6 Q BY MS. CACACCIO: Who's that?

7 A That's me.

8 (Audio played at 10:25 a.m., ending at 10:25 a.m.)

9 Q BY MS. CACACCIO: Do you know who says who responded to  
10 you initially?

11 A Can you take it back just a bit?

12 (Audio played at 10:25 a.m., ending at 10:26 a.m.)

13 A At the end, it's Deanna Pusatier.

14 Q BY MS. CACACCIO: Do you know who was before that?

15 A I believe it was Courtney Stroehar.

16 (Audio played at 10:26 a.m., ending at 10:26 a.m.)

17 Q BY MS. CACACCIO: Who's that?

18 A Deanna Pusatier.

19 MS. CACACCIO: We're at 51:58 on the recording.

20 (Audio played at 10:26 a.m., ending at 10:26 a.m.)

21 Q BY MS. CACACCIO: Who's that?

22 A Deanna Pusatier.

23 MS. CACACCIO: 51:23 on the recording.

24 (Audio played at 10:26 a.m., ending at 10:26 a.m.)

25 Q BY MS. CACACCIO: Who's that?

1 A Rossann Williams.

2 (Audio played at 10:27 a.m., ending at 10:27 a.m.)

3 Q BY MS. CACACCIO: Who's that?

4 A That's me.

5 MS. CACACCIO: We're at 51:36.

6 (Audio played at 10:27 a.m., ending at 10:27 a.m.)

7 Q BY MS. CACACCIO: Who's that?

8 A That's me, as well.

9 MS. CACACCIO: 51:41.

10 (Audio played at 10:27 a.m., ending at 10:27 a.m.)

11 Q BY MS. CACACCIO: Who's that?

12 A That's me.

13 MS. CACACCIO: We're at 51:56.

14 (Audio played at 10:27 a.m., ending at 10:27 a.m.)

15 Q BY MS. CACACCIO: Do you know who responded to you?

16 A I believe that was Allyson Peck saying okay.

17 (Audio played at 10:27 a.m., ending at 10:27 a.m.)

18 Q BY MS. CACACCIO: Who was that?

19 A That's me.

20 MS. CACACCIO: We're at 52:01.

21 (Audio played at 10:27 a.m., ending at 10:28 a.m.)

22 Q BY MS. CACACCIO: Who's that?

23 A That's me.

24 MS. CACACCIO: 52:10.

25 (Audio played at 10:28 a.m., ending at 10:28 a.m.)

1 Q BY MS. CACACCIO: What -- who was -- who was talking --  
2 the speech?

3 A That was me.

4 Q And who interjected; do you know?

5 A Deanna Pusatier.

6 (Audio played at 10:28 a.m., ending at 10:28 a.m.)

7 Q BY MS. CACACCIO: Do you know who was talking?

8 A Deanna Pusatier.

9 Q And do you know who responded?

10 A Rossann Williams.

11 (Audio played at 10:28 a.m., ending at 10:29 a.m.)

12 Q BY MS. CACACCIO: Do you know who that is?

13 A The "great" was me. The voice --

14 Q Okay.

15 A -- after was Rossann.

16 (Audio played at 10:29 a.m., ending at 10:29 a.m.)

17 Q BY MS. CACACCIO: Who's that?

18 A That's me.

19 (Audio played at 10:29 a.m., ending at 10:29 a.m.)

20 Q BY MS. CACACCIO: Who's that?

21 A That was me.

22 Q Do you know who responds to you?

23 A I think it's Deanna Pusatier.

24 (Audio played at 10:29 a.m., ending at 10:29 a.m.)

25 Q BY MS. CACACCIO: Do you know who that is?

1 A Brianna Marcina.

2 MS. CACACCIO: We're at 53:03.

3 (Audio played at 10:29 a.m., ending at 10:29 a.m.)

4 Q BY MS. CACACCIO: Who's that?

5 A Rossann Williams.

6 (Audio played at 10:29 a.m., ending at 10:30 a.m.)

7 Q BY MS. CACACCIO: Who's that?

8 A Rossann Williams.

9 MS. CACACCIO: We're at 53:33.

10 (Audio played at 10:30 a.m., ending at 10:30 a.m.)

11 Q BY MS. CACACCIO: Who's that?

12 A Rossann Williams.

13 MS. CACACCIO: We're at 53:46.

14 (Audio played at 10:30 a.m., ending at 10:30 a.m.)

15 Q BY MS. CACACCIO: Is that the end of the meeting?

16 A That's us leaving the conference room, yes.

17 MS. CACACCIO: Your Honor, I'm happy to continue to play  
18 the recording, but that's the pertinent parts.

19 JUDGE ROSAS: Tell me again?

20 MS. CACACCIO: I'm happy to play the rest of the  
21 recording, but that's the pertinent parts. There's another two  
22 minutes or so left.

23 JUDGE ROSAS: Does the Respondent care to hear the rest of  
24 it?

25 MS. POLITO: Judge, if you could just give me a minute.

1 JUDGE ROSAS: Sure, off the record.

2 (Off the record at 10:31 a.m.)

3 MS. POLITO: If the video is going to be introduced into  
4 evidence, and I would prefer that the whole thing get played  
5 subject to my objections --

6 JUDGE ROSAS: Okay.

7 MS. POLITO: -- or subject to my objections once it's  
8 played that any portion of the audio transcript where there's  
9 been a speaker that's not been identified, I'm going to ask the  
10 Court strike that portion from the transcript.

11 JUDGE ROSAS: And I'm going to -- oh, back on the record.  
12 Let's play it.

13 (Audio played at 10:31 a.m., ending at 10:32 a.m.)

14 **RESUMED DIRECT EXAMINATION**

15 Q BY MS. CACACCIO: Who's that?

16 A That's me.

17 (Audio played at 10:32 a.m., ending at 10:32 a.m.)

18 Q BY MS. CACACCIO: Who are you talking to there?

19 A Talking to partners from the Genesee store that are  
20 waiting to go into their meeting.

21 (Audio played at 10:32 a.m., ending at 10:32 a.m.)

22 Q BY MS. CACACCIO: Who's that?

23 A That's me.

24 (Audio played at 10:32 a.m., ending at 10:32 a.m.)

25 Q BY MS. CACACCIO: What's the music?



- 1 A We're in the lobby of the hotel.
- 2 (Audio played at 10:32 a.m., ending at 10:33 a.m.)
- 3 Q BY MS. CACACCIO: Do you know who that is?
- 4 A That's Kellen Higgins.
- 5 (Audio played at 10:33 a.m., ending at 10:33 a.m.)
- 6 Q BY MS. CACACCIO: Do you know who that is?
- 7 A That was me.
- 8 (Audio played at 10:33 a.m., ending at 10:33 a.m.)
- 9 Q BY MS. CACACCIO: Where -- who is that?
- 10 A Courtney Stroeher.
- 11 (Audio played at 10:33 a.m., ending at 10:33 a.m.)
- 12 Q BY MS. CACACCIO: Who's that?
- 13 A That's me.
- 14 (Audio played at 10:33 a.m., ending at 10:34 a.m.)
- 15 Q BY MS. CACACCIO: Who's that?
- 16 A Courtney Stroeher.
- 17 (Audio played at 10:34 a.m., ending at 10:34 a.m.)
- 18 Q BY MS. CACACCIO: Who's that?
- 19 A Kellen Higgins.
- 20 Q End of the recording. Michelle, did you have any part in
- 21 making the transcription for this?
- 22 A I did not.
- 23 Q And was this the full recording that you recorded on your
- 24 Apple Watch?
- 25 A That was the full recording that I have, yes.

1 Q Did it seem tainted to you in any way?

2 A It did not.

3 Q Or changed in any way?

4 A It did not.

5 MS. CACACCIO: Your Honor, I will offer General Counsel's  
6 Exhibit 26(a), and to the extent it's helpful for the Court,  
7 26(b) just for reference.

8 JUDGE ROSAS: Respondent?

9 MS. POLITO: Judge, for the reasons that were stated in  
10 the record yesterday, we object to the use of this audio  
11 recording pursuant to 901. There's not been proper  
12 authentication with respect to the recording. The witness  
13 testified yesterday that she actually uploaded the audio from  
14 her watch and emailed it to a Mr. Gunlinger (phonetic), and  
15 from there, she was not sure what happened to the audio  
16 recording, and she just confirmed for the record that she did  
17 not transcribe the recording and is not -- therefore does not  
18 know if the transcription is an accurate version of the audio  
19 recording.

20 Alternatively, Judge, if -- if the Court is inclined to  
21 grant the audio recording, we request that all portions of the  
22 record where a voice that was not identified by the witness or  
23 where the witness misidentified a voice, those parts of the  
24 audio be stricken from the record.

25 JUDGE ROSAS: All right. The motion is granted. The

1 offer to receive 20 -- General Counsel's 26(a) is received in  
2 evidence.

3 **(General Counsel Exhibit Number 26(a) Received into Evidence)**

4 JUDGE ROSAS: General Counsel's 26(b), let me put that on  
5 the side for the moment, but the witness, based on her direct  
6 examination, has provided sufficient foundation for the receipt  
7 of -- of this audio recording as something that she heard at  
8 the time that it would -- these statements were made, and she's  
9 identified the statements now as those statements on the audio  
10 recording. It's absolutely appropriate under Federal Rule of  
11 Evidence 901(b)(5) her testimony regarding the -- the voices  
12 that are identified on that audio recording, so -- so that  
13 audio recording will be received in evidence.

14 With respect to General Counsel's 26(b), let me suggest  
15 that at this time that, while a transcription to be offered by  
16 a party should always be received because while it is not a  
17 contemporaneous document created at the time that the  
18 statements were made, it is an effort by someone, oftentimes  
19 it's the attorneys. It's not usually a third party. Sometimes  
20 it could be transcribed by a reporter, but oftentimes it's just  
21 done by the off -- by the lawyers themselves and provided to  
22 the judge as made that being said, the Respondent can also  
23 provide its own version if the parties can't agree.

24 Now, that being said, what I will suggest to the General  
25 Counsel is so that the aide is an aide, that whether you can



1 get the original file from whomever created this aide, it would  
2 be useful for everyone, including the factfinder, to have any  
3 references to unidentified speakers to be revised with whomever  
4 you all -- or you all believe the speakers were, or corrections  
5 to the transcription in -- in any parts, but the key here is  
6 that -- that the primary evidence here, the only evidence,  
7 really, is 26(b).

8 MS. CACACCIO: (a), Judge.

9 JUDGE ROSAS: (a) -- General Counsel's 26 -- 26(a). To  
10 the extent that a transcription comes in -- comes in as  
11 evidence, just like evidence comes in all the time because it  
12 passes the -- the test for admissibility, okay, and in this  
13 case, we have identified what these transcriptions -- the  
14 transcription or transcriptions will come in for, okay, so --  
15 so General Counsel's 26(b) will re -- be received whenever it  
16 is offered, and Respondent's version of it, if at all, will be  
17 received when the Respondent wants to tender it, if that  
18 becomes the case.

19 Now -- now, it -- it behooves us to talk about additional  
20 audios going forward, and -- and again, having just basically  
21 explained what the record needs to have, if there are audio  
22 recordings -- additional audio recordings that are offered and  
23 are admitted, the question's going to be going forward what  
24 needs to be done, what time needs to be expended in order to  
25 deal with that evidence, okay, but again, all that evidence, if

1 and when it comes in, has to be reviewed in the record.

2 And for audio to be played, you know, the parties can  
3 review audio and they can submit their transcription versions  
4 of audio prior to the record closing, if y'all can't get  
5 together on it. If you want to play it in court, then we'll  
6 deal with it, but I got to tell you if we're dealing with, say,  
7 for example, three individuals allegedly speaking at a series  
8 of meetings that are always on the Respondent's side that are  
9 speaking, I'm not sure what the point is to have them  
10 identified every time in the hearing. If we're -- if we're  
11 moving around to different locations and we have to other  
12 individuals, you know, if y'all can't agree, then, perhaps we  
13 have to deal with that.

14 MS. POLITO: Judge, if I may?

15 JUDGE ROSAS: Go ahead.

16 MS. POLITO: We did try to have a conversation about how  
17 we could have -- counsel to the General Counsel could play the  
18 recordings. The issue from the Respondent's side is I don't  
19 know who all those baristas are and I'm not going to have a  
20 single person at my client to be able to say that these are all  
21 the people speaking, so that's not -- it's not possible for us  
22 to be able to identify all the speakers in audio recordings,  
23 and so we had talked about potentially having the witness  
24 identify the -- the people that were there. Candidly, I  
25 thought that this was more helpful for the witness to try to

1 identify the people as we were going through because she  
2 identified some of the speakers that, again, Respondent would  
3 not know. Some of it was inconsistent with the transcript and  
4 some of the speakers still were not identified at all, but to  
5 the extent that the witness was able to identify the speakers,  
6 that was helpful to Respondent.

7 MS. CACACCIO: Might I be heard, Judge? I think that the  
8 pertinent -- I don't know that -- that it's the General  
9 Counsel's opinion that every person on every recording does not  
10 need to be identified for the recording to be admitted given  
11 what the witness testifies foundationally, so I think that we  
12 might be able to do some kind of compromise where I don't know  
13 that the individual baristas need to be identified. It's not  
14 necessary, at least not for the position of the General  
15 Counsel. If we're able to identify the Respondent's speakers  
16 and that the person responding to them are baristas, which I  
17 think nine-tenths of these recordings will be self-explanatory,  
18 we wouldn't have to play 50 hours of this.

19 JUDGE ROSAS: Well, the Respondent is entitled to probe  
20 the evidence, so you can't preclude the Respondent from asking  
21 about the content of the video, but these are all ideas that  
22 are out there, and I haven't -- I haven't arrived at a decision  
23 on how we're going to deal with each and every one, but we have  
24 a little bit of a picture at this point, I think, right? Okay.

25 All right, off the record. Let's take five.

1 (Off the record at 10:43 a.m.)

2 MS. CACACCIO: Sorry, I have to turn my computer back on.  
3 It shuts itself off.

4 **RESUMED DIRECT EXAMINATION**

5 Q BY MS. CACACCIO: That meeting that you just -- that we  
6 just listened to, were you paid to attend it?

7 A I was paid to attend it, yes.

8 Q How did that work?

9 A We were told that we were compensated for our time, I -- I  
10 think. There was some discrepancy initially because there was  
11 an unawareness that the law in New York State was that you had  
12 to paid for a minimum of three hours, so initially, we were  
13 only compensated for the one.

14 MS. POLITO: I'm just going to object to the witness's  
15 discussion of what New York State law is.

16 JUDGE ROSAS: The answer was yes. Next question.

17 MS. CACACCIO: Judge, my question was how -- how she was  
18 compensated, and that's --

19 JUDGE ROSAS: She --

20 MS. CACACCIO: -- what she was explaining.

21 JUDGE ROSAS: She was paid. All right, next question.

22 Q BY MS. CACACCIO: When was the next session that you  
23 attended?

24 A Sunday, September 18th, 2021.

25 Q How did you learn about that meeting?

1 A My store manager was going around a few days prior with a  
2 clipboard that had three time slots listed and a date of  
3 Sunday, September 18th asking us which of these three sessions  
4 we would be able to attend.

5 Q Do you know -- do you remember what day of the week it  
6 was?

7 A That she was walking around?

8 Q Yes.

9 A I had a conversation with her that Wednesday, I believe.

10 Q And when was the meeting?

11 A Sunday, the 18th.

12 Q Are you sure that the Sunday was -- are you sure about the  
13 date or the day of the week?

14 A Can you rephrase that? It may have been the 19th, if  
15 that's what you're asking. It was a Sunday.

16 Q It was a Sunday?

17 A It was the Sunday after Friday the 10th.

18 MS. CACACCIO: Your Honor, I ask you take judicial notice  
19 that September 19th, 2021, was a Sunday.

20 JUDGE ROSAS: You -- you just -- just stated it on the  
21 record.

22 Q BY MS. CACACCIO: How did you learn about this meeting?

23 A My store manager, Patty Shanley, was going around that  
24 week with a clipboard pulling partners aside and asking them  
25 which of the three time slots they would be able to attend on

1 Sunday the 19th.

2 Q And what were those time slots?

3 A 8 a.m., 12 p.m., and 4 p.m.

4 Q What -- did Patty say anything about whether attendance  
5 was going to be required at this meeting?

6 A I made the assumption that it was because I wasn't given  
7 an option not to attend.

8 Q Where was the meeting held?

9 A The Suzanne Miller Hotel conference room in the medical  
10 corridor.

11 Q What time was the meeting you attended?

12 A I attended the 8 a.m. session.

13 Q And would the store usually be open during that time?

14 A Yes, it would.

15 Q Was it?

16 A It was, yes.

17 Q Who ran this meeting?

18 A This meeting was also run by Deanna Pusatier, Allyson  
19 Peck, and Rossann Williams.

20 Q And about how many employees attended the meeting?

21 A I think this one was attended by eight or nine partners.

22 Q And those partners, what stores did they work in?

23 A They were all from the Elmwood location.

24 Q About how long did this meeting last?

25 A A little over an hour, I believe.

1 Q Did you record it?

2 A I did.

3 Q How did you record it?

4 A Using my Apple Watch.

5 Q Did you make any alterations to that recording?

6 A I did not.

7 Q And what did you do with that after you recorded it?

8 A This one was sent directly to our attorneys.

9 Q Did you record the full meeting?

10 A I did.

11 Q If I played you a copy of that recording, could you  
12 identify it for us?

13 A Yes, I could.

14 MS. CACACCIO: Your Honor, I'm now identifying for the  
15 record 27(a), which is the recording of the meeting that Ms.  
16 Eisen just identified along with 27(b), which is an aide for  
17 that recording.

18 JUDGE ROSAS: Tell me the number again.

19 MS. CACACCIO: 27(a) for the recording, Your Honor, and  
20 27(b) for the transcript.

21 JUDGE ROSAS: Have the parties seen that?

22 MS. CACACCIO: We did send it to them, Your Honor.

23 MS. POLITO: We have -- we received a copy of several  
24 recordings relating to this witness late Friday, Your Honor.

25 JUDGE ROSAS: Okay.



1 MS. POLITO: Can I ask a couple -- the witness a few voir  
2 dire questions before we start?

3 JUDGE ROSAS: Sure.

4 **VOIR DIRE EXAMINATION**

5 Q BY MS. POLITO: Ms. Eisen, have you listened to the actual  
6 recording that the counsel for the General Counsel is going to  
7 play?

8 A Yes, I have.

9 Q When did you listen to it?

10 A Last week.

11 Q I'm sorry?

12 A Last week.

13 Q Last week? And your testimony is that this is the same --  
14 it's a complete recording that you took on your Apple Watch on  
15 the day of the meeting; is that correct?

16 A That is correct.

17 Q And you -- that -- as I understand from your testimony  
18 yesterday, when you record on the Apple Watch, it automatically  
19 uploads to your cell phone; is that correct?

20 A That's correct, yes.

21 Q Do you know if it's in the same data format or a different  
22 data format?

23 A I don't think I know.

24 Q And when it went to your phone, you then sent it to Mr.  
25 Hayes; is that correct?



1 A Yes.

2 Q And you sent it via email?

3 A Yes, I don't know if it was a drop -- it was a big file,  
4 so I'm not sure if it was an attachment or in a Dropbox, but  
5 it -- the correspondence was via email.

6 Q Okay, so the -- this second -- the audio recording might  
7 have been sent to Mr. Hays via Dropbox?

8 A Probably like it's a little Google drive, I think.

9 Q Okay. Was it sent to anyone other than Mr. Hayes?

10 A There were probably a couple of other people on that  
11 email, yes.

12 Q And did you compare the recording last week with your  
13 original recording to make sure that it was a complete  
14 recording of the meeting on September 19th?

15 A I did.

16 MS. POLITO: That's all I have. Thank you, Judge.

17 MS. CACACCIO: And Your Honor, just for clarity for the  
18 record, at about 13 minutes and 20 seconds, that's when the  
19 transcription picks up because that's when the meeting starts,  
20 so I'm happy to play the first 13 minutes and 20 seconds, but  
21 it's not relevant to the meeting itself, but that's how we  
22 demonstrate it's a full recording.

23 JUDGE ROSAS: What do you prefer?

24 MS. POLITO: I prefer a transcript of the complete audio  
25 recording, Judge, which we don't have.

1 JUDGE ROSAS: Okay. So we're going to proceed with 27(a)  
2 today at this point, so what do you prefer, that she start from  
3 the get-go or when the transcription that currently exists  
4 starts?

5 MS. POLITO: When she starts from the beginning?

6 JUDGE ROSAS: Okay.

7 (Audio played at 11:06 a.m., ending at 11:06 a.m.)

8 Q BY MS. CACACCIO: Who's that?

9 A The very first voice was Angela Dudzic.

10 Q And the next voice?

11 A I think you hear Jeremy Pasquale in there and then myself.

12 Q And who are those people?

13 A Both are partners at Elmwood.

14 (Audio played at 11:06 a.m., ending at 11:07 a.m.)

15 MS. CACACCIO: I'm sorry, I should note for the record,  
16 this recording is 1 hour and 19 minutes and 37 seconds.

17 (Audio played at 11:07 a.m., ending at 11:07 a.m.)

18 Q BY MS. CACACCIO: Who's that?

19 A That was me.

20 MS. CACACCIO: We're at 30 seconds.

21 (Audio played at 11:07 a.m., ending at 11:07 a.m.)

22 Q BY MS. CACACCIO: Who are you talking to there?

23 A Jeremy Pasquale.

24 (Audio played at 11:07 a.m., ending at 11:07 a.m.)

25 Q BY MS. CACACCIO: Who were you talking about there?

1 A I'm talking about Cassie Fleischer.

2 Q And who's that?

3 A She's also -- was a partner at Elmwood.

4 (Audio played at 11:07 a.m., ending at 11:08 a.m.)

5 MS. CACACCIO: Your Honor, at this point, I'm going to  
6 play this beginning for the first 13 minutes and 20 seconds.  
7 If it's oh -- I would propose that if at some point during this  
8 recording Respondent would like me to stop to have a speaker  
9 identified, I'll do so, but given that it's not -- it's just  
10 for completeness. I don't know that I even have a speaker at  
11 this point.

12 JUDGE ROSAS: All right. You can raise your hand or  
13 signal somehow and she can stop immediately, okay?

14 (Audio played at 11:08 a.m., ending at 11:18 a.m.)

15 Q BY MS. CACACCIO: Who all is speaking?

16 A I think that was Deanna Pusatier.

17 MS. CACACCIO: And we're at 10:59 in the recording. It's  
18 not in the transcript yet. The meeting hasn't started  
19 presumably.

20 (Audio played at 11:18 a.m., ending at 11:19 a.m.)

21 Q BY MS. CACACCIO: What's happening at this point in the  
22 recording?

23 A We're commenting on the carpet in the conference room.

24 JUDGE ROSAS: What's the time?

25 MS. CACACCIO: We're at, like, 11:46-ish, Judge.

1 (Audio played at 11:19 a.m., ending at 11:19 a.m.)

2 Q BY MS. CACACCIO: We're at 11:59. What happened there?

3 A He spilled my coffee on myself.

4 (Audio played at 11:20 a.m., ending at 11:20 a.m.)

5 Q BY MS. CACACCIO: We're at 12:39. What's happening there?

6 A They're passing out coffee. That was in the meeting for  
7 us to do a coffee tasting.

8 A Do you know who's passing out the coffee?

9 A Deanna and Allyson, I believe.

10 (Audio played at 11:20 a.m., ending at 11:20 a.m.)

11 MS. CACACCIO: Sorry, we're at, like, 12:40 in the  
12 recording.

13 (Audio played at 11:20 a.m., ending at 11:21 a.m.)

14 Q BY MS. CACACCIO: Who is that?

15 A That was me.

16 Q And who are you talking to?

17 A Talking to Jeremy.

18 MS. CACACCIO: We're at 12:47 in the recording.

19 (Audio played at 11:21 a.m., ending at 11:21 a.m.)

20 Q BY MS. CACACCIO: Do you know who that is?

21 A That's Allyson Peck.

22 MS. CACACCIO: We're at 13:10.

23 (Audio played at 11:21 a.m., ending at 11:21 a.m.)

24 Q BY MS. CACACCIO: Do you know who this is? We're at  
25 13:20, which is where the transcription starts?

1 A When she starts saying was anyone not at the meeting,  
2 that's Deanna Pusatier.

3 (Audio played at 11:21 a.m., ending at 11:22 a.m.)

4 Q BY MS. CACACCIO: Who responds "thanks"?

5 A That's me.

6 MS. CACACCIO: Just one second, Judge.

7 (Audio played at 11:22 a.m., ending at 11:22 a.m.)

8 Q BY MS. CACACCIO: Do you know who that is?

9 A I think that's Deanna Pusatier.

10 (Audio played at 11:22 a.m., ending at 11:22 a.m.)

11 Q BY MS. CACACCIO: Who's that?

12 A That's me.

13 MS. CACACCIO: We're at 13:40.

14 (Audio played at 11:22 a.m., ending at 11:23 a.m.)

15 Q BY MS. CACACCIO: Do you know who was speaking there?

16 A Deanna Pusatier.

17 (Audio played at 11:23 a.m., ending at 11:23 a.m.)

18 Q BY MS. CACACCIO: Do you know who that is?

19 A Deanna Pusatier.

20 MS. CACACCIO: We're at 14:15.

21 Judge, I don't know. And we just, sort of, talked about  
22 this briefly before we played this recording after the last  
23 one. We have discussed how if the speakers, or speakers, we  
24 had just identified earlier, maybe wouldn't have to identify  
25 them every time. I'm happy to keep doing it the way we're

1 doing it. But I'm open to suggestion.

2 HEARING OFFICER ROSAS: Well, we have constants of -- and  
3 I don't want to get any of the names wrong, but --

4 MS. CACACCIO: Rossanne, Deanna, and Allison.

5 HEARING OFFICER ROSAS: Correct. And then, we have Ms.  
6 Eisen. So my preference would be not to identify those  
7 individuals when they're speaking, but new individuals that  
8 have not been identified as the voice. That's my preference.  
9 It's up to you, Counsel. You have a right.

10 MS. PHIPPS POLITO: Judge, I think that that makes sense.  
11 Where Ms. -- I mean, I don't know, if even the first time we  
12 want to say next in the hearing, Ms. Williams --

13 HEARING OFFICER ROSAS: Sure.

14 MS. PHIPPS POLITO: -- and Ms. Peck.

15 HEARING OFFICER ROSAS: Yeah.

16 MS. PHIPPS POLITO: We could, you know, employees.

17 HEARING OFFICER ROSAS: When it comes to statements --

18 MS. PHIPPS POLITO: Yeah.

19 HEARING OFFICER ROSAS: Allegedly uttered by --

20 MS. PHIPPS POLITO: Uh-huh.

21 HEARING OFFICER ROSAS: -- your -- your manager,  
22 supervisors, officials at any of these meetings, you -- you  
23 know, we -- we've already got some introduction to what they  
24 sound like from this witness. And you can take a different  
25 interpretation of who's saying what, who's saying it and what

1 they're saying, and your version of a transcription should it  
2 not be agreed upon, okay?

3 MS. PHIPPS POLITO: I -- agree, Judge.

4 HEARING OFFICER ROSAS: Okay.

5 MS. PHIPPS POLITO: And -- and -- and we had discussed  
6 that as a possibility identifying those individuals up front,  
7 Ms. Eisen, that's the first time her voice comes on. But for  
8 the other employees and -- or I'm sorry, for the partners and  
9 baristas that are present that we don't know they are, I still  
10 think there may need to know who they are for the record.

11 HEARING OFFICER ROSAS: So it sounds like based on your  
12 discussions, General Counsel will just play it. And General  
13 Counsel will stop it when they feel that they need to identify  
14 something. And if you want somebody to be identified, or need  
15 it to stop, you will indicate. This motion -- or --

16 MS. PENDER STANLEY: I'll keep it on. It's okay.

17 HEARING OFFICER ROSAS: Ask the General Counsel, okay --

18 MS. PHIPPS POLITO: Yeah.

19 HEARING OFFICER ROSAS: -- to stop.

20 MS. PHIPPS POLITO: I under -- my understanding, Judge, is  
21 every time a barista speaks that I don't recognize it, we're  
22 going to need the identification.

23 HEARING OFFICER ROSAS: Just -- just say stop, if the  
24 General Counsel hasn't stopped.

25 MS. PHIPPS POLITO: Okay.

1 HEARING OFFICER ROSAS: Okay?

2 (Audio played at 11:26 a.m., ending at 11:27 a.m.)

3 MS. PHIPPS POLITO: So this is a stop. Okay, what --

4 MS. CACACCIO: I'm sorry, what?

5 MS. PHIPPS POLITO: Could we just identify Emily and  
6 LaRue's last name for the record?

7 THE WITNESS: Emily Hirsch and LaRue Heutmaker,  
8 H-A-U-T-M-A-K-E-R (sic), I think. Or -- yeah, some --  
9 something like that.

10 Q BY MS. CACACCIO: Do you know how to spell LaRue?

11 A L-A, capital R-U-E.

12 MS. PENDER STANLEY: Jessie (phonetic throughout), can I  
13 go on?

14 MS. CACACCIO: If there's any.

15 MS. PENDER STANLEY: Um-hum.

16 (Audio played at 11:27 a.m., ending at 11:27 a.m.)

17 Q BY MS. CACACCIO: Can you identify that person's last  
18 name?

19 A Cathy Fletcher (phonetic throughout).

20 Q And who's that?

21 A She is one of the partners at Elmwood.

22 (Audio played at 11:27 a.m., ending at 11:27 a.m.)

23 Q BY MS. CACACCIO: Do you know who that is?

24 A Laila (phonetic throughout) Gentil, G-E-N-T-I-L.

25 (Audio played at 11:27 a.m., ending at 11:28 a.m.)



1 A Angela Dudzik.

2 (Audio played at 11:28 a.m., ending at 11:34 a.m.)

3 Q BY MS. CACACCIO: Who spoke before the "you're telling  
4 me"? Who was the person who was talking about, "when they're  
5 down and out, I help them"?

6 A Jerry Lipscomb (phonetic throughout).

7 Q And who --

8 A Jerry Lipscomb.

9 Q And who was just speaking?

10 A Austin Reed.

11 (Audio played at 11:34 a.m., ending at 11:35 a.m.)

12 Q BY MS. CACACCIO: Can you identify this speaker?

13 A Emily Hirsch.

14 MS. CACACCIO: We're at 22:42.

15 (Audio played at 9:35 a.m.)

16 MS. PHIPPS POLITO: I'm sorry?

17 (Audio ends at 11:35 a.m.)

18 A Emily Hirsch.

19 HEARING OFFICER ROSAS: Keep your voice up.

20 (Audio played at 11:36 a.m., ending at 11:36 a.m.)

21 MS. PHIPPS POLITO: I'm sorry. I just want the  
22 transcript -- transcript uploaded where --

23 MS. PENDER STANLEY: We are on page 14.

24 MS. CACACCIO: Line 10.

25 MS. PHIPPS POLITO: Can the witness identify which barista

1 was just speaking?

2 THE WITNESS: Yes. It was LaRue Heutmaker.

3 MS. PHIPPS POLITO: Thank you.

4 (Audio played at 11:37 a.m., ending at 11:37 a.m.)

5 MS. PENDER STANLEY: Are you ready?

6 MS. CACACCIO: Um-hum.

7 (Audio played at 11:37 a.m., ending at 11:39 a.m.)

8 Q BY MS. CACACCIO: Can you identify the acronym, NFB?

9 A Niagara Falls Boulevard.

10 (Audio played at 11:39 a.m., ending at 11:39 a.m.)

11 Q BY MS. CACACCIO: Do you know what she said, when she  
12 said, "you know, just like where blank is put"?

13 A The nitro.

14 Q And what's that?

15 A It's the -- the cold -- the nitro-cold room cooling for --  
16 it looks like a beer tap.

17 (Audio played at 11:40 a.m., ending at 11:41 a.m.)

18 Q BY MS. CACACCIO: Can you identify the speaker?

19 A Allyson Peck.

20 (Audio played at 11:41 a.m., ending at 11:42 a.m.)

21 Q BY MS. CACACCIO: Do you know who that was?

22 A Austin Reed.

23 (Audio played at 11:42 a.m., ending at 11:42 a.m.)

24 MS. CACACCIO: Sorry. That was around, like, 12 -- 28:15,  
25 roughly.

1 (Audio played at 11:42 a.m., ending at 12:02 p.m.)

2 MS. POLITO: Can we just stop and confirm that that's  
3 Austin?

4 Q BY MS. CACACCIO: Who's that speaker?

5 A That's Austin Reed.

6 MS. POLITO: Last name again?

7 THE WITNESS: Reed, R-E-E-D.

8 MS. POLITO: Thank you.

9 (Audio played at 12:02 p.m., ending at 12:04 p.m.)

10 MS. CACACCIO: So we're at 49:41.

11 (Audio played at 12:04 p.m., ending at 12:04 p.m.)

12 Q Do you recognize that speaker?

13 A That's Allyson Peck.

14 MS. CACACCIO: We're at 1:15:05.

15 (Audio played at 12:29 p.m., ending at 12:30 p.m.)

16 BY MS. CACACCIO:

17 Q Do you know who that is?

18 A LaRue Heutmaker.

19 MS. CACACCIO: We're at 1:15:35.

20 (Audio played at 12:30 p.m., ending at 12:30 p.m.)

21 BY MS. CACACCIO:

22 Q What's ETF?

23 A Elmwood Taco and Subs.

24 (Audio played at 12:30 p.m., ending at 12:31 p.m.)

25 MS. POLITO: Can we just pause? Is this -- is this

1 Michelle speaking the past few minutes?

2 THE WITNESS: No, that's LaRue.

3 MS. POLITO: LaRue's, okay. .

4 THE WITNESS: Yes.

5 MS. POLITO: Thank you.

6 MS. CACACCIO: We're at 1:16:25.

7 (Audio played at 12:31 p.m., ending at 12:32 p.m.)

8 MS. CACACCIO: So that's the end of the transcript, but  
9 there's about two minutes and 23 seconds left.

10 JUDGE ROSAS: Do you want to play it?

11 MS. POLITO: Yes.

12 (Audio played at 12:32 p.m., ending at 12:32 p.m.)

13 MS. CACACCIO: I'm going to handle this the way I did in  
14 the beginning. If there's someone you want me to identify, at  
15 some point, let me know, otherwise I won't identify.

16 (Audio played at 12:32 p.m., ending at 12:33 p.m.)

17 MS. CACACCIO: We're at about 1:18:05.

18 BY MS. CACACCIO:

19 Q Michelle, what's happening at this part of the recording?

20 A We're all gathering our stuff and either, like, just  
21 milling about the conference room or leaving the conference  
22 room.

23 (Audio played at 12:33 p.m., ending at 12:35 p.m.)

24 BY MS. CACACCIO:

25 Q Michelle, that's a recording of the meeting that you

1 recall reporting on about September 19th?

2 A Yes.

3 Q Was it altered in any way?

4 A It was not.

5 Q Were you -- did you take any part in the transcription of  
6 this recording?

7 A I did not.

8 MS. CACACCIO: Your Honor, I will **offer** General Counsel's  
9 27(a), which is the recording. And as we just discussed for  
10 the last recording, I'll -- we'll do the transcript when we  
11 reach that point in relationship.

12 JUDGE ROSAS: Any additional voir dire?

13 MS. POLITO: No additional voir dire, Judge. Two  
14 objections, with respect to 27b. And I also note that the  
15 transcript was titled Employer Captive Audience Meeting, and  
16 I'm asking that that be stricken from the transcript. It was  
17 not an Employer Captive Audience Meeting. The witness heresel  
18 testified that she was not mandated to go there.

19 JUDGE ROSAS: Well, in a revised version of 27(b), you  
20 might be able to take care of that, General Counsel.

21 MS. CACACCIO: Yes.

22 JUDGE ROSAS: Call it what it is, right?

23 MS. CACACCIO: Yes, Judge.

24 JUDGE ROSAS: Okay. And identify the unidentified.

25 MS. CACACCIO: Yes, Judge. I will do my best.

1 JUDGE ROSAS: Okay. So over objection, same ruling.

2 General Counsel's 27(a) is received at this time.

3 **(General Counsel Exhibit Number 27(a) Received into Evidence)**

4 BY MS. CACACCIO:

5 Q Michelle, what did you do after this meeting ended?

6 A I drove myself and another partner back to the Elmwood  
7 location.

8 Q And who was the other partner?

9 A Layland Gambino (phonetic).

10 Q And what did you do when you got to the Elmwood location?

11 A I met another partner, Jaz Brisack, and sat at a café  
12 table where I told her what had happened in the meeting I was  
13 just at.

14 Q And what happened then?

15 A As we were talking, Deanna Pusatier, Elle Posack  
16 (phonetic) and Rossann Williams came through the door of the  
17 café. They went around the -- somewhere behind the bar and  
18 started talking to those partners that were running the store.

19 MS. CACACCIO: Your Honor, at this point, it's about  
20 12:30. I have another -- we're going to have another recording  
21 to play. It's also lengthy.

22 JUDGE ROSAS: Okay.

23 MS. CACACCIO: I can tell you exactly how lengthy.

24 JUDGE ROSAS: Off the record.

25 (Off the record at 12:37 p.m.)

**RESUMED DIRECT EXAMINATION**

1

2 Q BY MS. CACACCIO: Michelle, we just talked about the  
3 recording before the break. We talked about a listening  
4 session where you kind of -- on your lunch break, did you talk  
5 to anyone else in this room?

6 A I did.

7 Q I'd like to talk to you about a listening session on  
8 September 19th. Did you ever attend another one after that?

9 A The next one I attended was Friday, October 1st.

10 Q And how did you hear about this session?

11 A Now, they were posting it on our back fridge in the store.

12 Q And what did the posting say, if you remember?

13 A That the store was going to be closed for the next day to  
14 have a -- have a store meeting. And we were all supposed to  
15 make it a priority to attend.

16 Q And where was the meeting held?

17 A That was held in the Elmwood location.

18 Q Do you remember what time the meeting was?

19 A The meeting began at 5 p.m. or it began at 6 p.m. I'm not  
20 sure. In the evening.

21 Q Would the store usually be open during that time?

22 A It would, yeah.

23 Q And what time did the store close that day? What time  
24 should it have closed that day?

25 A I think 9 or 9:30 that evening.

- 1 Q Do you know what time it closed?
- 2 A It closed an hour prior to whatever the scheduled meeting
- 3 time was.
- 4 Q Who ran this meeting?
- 5 A This one was run by Allyson Peck, Chris Stewart, and Mark
- 6 Szto, I think. Or is it -- I don't know how to pronounce his
- 7 last name.
- 8 Q Do you know who Chris Stewart is?
- 9 A He -- e's a member of the corporate team. I think he said
- 10 he was in partner resources.
- 11 Q And what about Mark Szto?
- 12 A He was one of the interim district managers brought in.
- 13 Q About how many employees attended the meeting?
- 14 A I think there were maybe a dozen.
- 15 Q And how long did it last?
- 16 A A little over an hour, I think.
- 17 Q Did you record it?
- 18 A I did.
- 19 Q How did you record it?
- 20 A I used my Apple Watch.
- 21 Q Did you make any changes to that recording?
- 22 A I did not.
- 23 Q And have you listen to the recording?
- 24 A I have.
- 25 Q And is it a full copy of the recording that you were --



1     that you remember it to be?

2     A     Yes.

3     Q     And what did you do with the recording once you took it?

4     A     That was sent over to our training EMDs (phonetic). I  
5     think it was the Google drive -- sent to the Google drive.

6           MS. CACACCIO: So Your Honor, at this time, we're going to  
7     be -- General Counsel would like to play recording 28a. And  
8     there is a transcript here, 28b. It goes along with it.

9           JUDGE ROSAS: That's fine.

10          Any voir dire, Respondent?

11          MS. POLITO: No voir dire, Judge.

12          JUDGE ROSAS: Is there any objection?

13          MS. POLITO: We object, I think. Yes.

14          JUDGE ROSAS: Overruled.

15          Go ahead.

16          MS. CACACCIO: Judge, I believe -- and I guess we'll find  
17     out when I hit the buttons. But I believe that this  
18     transcription is complete, in that there's no pre or post -- it  
19     follows right along with the -- the recording. Of course, if  
20     I'm not right, I'm about to find out in just a second, so give  
21     me just a second.

22          And I'm going to do what we did last time. It seemed to  
23     work well for everyone involved, so I'm going to stop whenever  
24     anyone asks me to and the first speaker identified if we have  
25     new voices, unless there's an objection to that, I guess.

1 (Audio played at 1:48 p.m., ending at 1:49 p.m.)

2 MS. POLITO: Could she identify any of those people just  
3 by being there or by voice recognition?

4 BY MS. CACACCIO:

5 Q Could you tell us what's happening?

6 A Yeah. We're doing another coffee tasting.

7 Q Who's in the room at this point?

8 A All of the partners that attended. The person leading the  
9 coffee tasting was Allyson Peck. One of the dominant voices is  
10 Jeremy Pasquale, and then there's another voice that sounds  
11 kind of close. A deeper voice. That's Chris Stewart. And  
12 then Courtney Stroehar is a -- the female voice that's pretty  
13 prominent at that point.

14 MS. CACACCIO: Does that take care of it?

15 MS. POLITO: Thank you.

16 MS. CACACCIO: Yes.

17 (Audio played at 1:50 p.m., ending at 1:50 p.m.)

18 BY MS. CACACCIO:

19 Q Just for clarity, who's speaking right now?

20 A Allyson Peck.

21 MS. CACACCIO: And we're at 1:25.

22 (Audio played at 1:50 p.m., ending at 1:52 p.m.)

23 BY MS. CACACCIO:

24 Q And who was that last noise?

25 A The one I sat directly to the -- Tatyana Gonzalez.

1 MS. CACACCIO: We're at 3:13.

2 (Audio played at 1:52 p.m., ending at 1:53 p.m.)

3 BY MS. CACACCIO:

4 Q Who said hi?

5 A That's Mark.

6 (Audio played at 1:53 p.m., ending at 1:55 p.m.)

7 BY MS. CACACCIO:

8 Q What's an M-2?

9 A I actually do not know. Oh, M-2 is administrative, sorry.  
10 That's the espresso bar. Yeah.

11 (Audio played at 1:55 p.m., ending at 1:55 p.m.)

12 BY MS. CACACCIO:

13 Q Was that your voice?

14 A It was, yeah.

15 (Audio played at 1:55 p.m., ending at 1:58 p.m.)

16 BY MS. CACACCIO:

17 Q Who's talking there?

18 A Tatyana Gonzalez.

19 (Audio played at 1:58 p.m., ending at 1:59 p.m.)

20 BY MS. CACACCIO:

21 Q What does POS mean?

22 A Point of Sale, front register.

23 MS. CACACCIO: We're at 9:28.

24 (Audio played at 1:59 p.m., ending at 2:00 p.m.)

25 BY MS. CACACCIO:

- 1 Q Who was that just before?
- 2 A That's me.
- 3 Q Who's speaking right now?
- 4 A That's me.
- 5 (Audio played at 2:00 p.m., ending at 2:01 p.m.)
- 6 Q BY MS. CACACCIO: Do you know who that is?
- 7 A The male voice that just came in?
- 8 Q Yes.
- 9 A That's Mark.
- 10 MS. CACACCIO: We're at 10:52.
- 11 (Audio played at 2:01 p.m., ending at 2:01 p.m.)
- 12 Q BY MS. CACACCIO: Who's speaking there?
- 13 A Can I hear a little bit more?
- 14 Q Yep.
- 15 (Audio played at 2:01 p.m., ending at 2:01 p.m.)
- 16 MS. CACACCIO: Sorry. We're at 11:05, roughly.
- 17 (Audio played at 2:01 p.m., ending at 2:01 p.m.)
- 18 Q BY MS. CACACCIO: And the responses to Mark, who is that
- 19 person responding?
- 20 A That's Deborah Ashrayer (phonetic throughout).
- 21 Q Okay.
- 22 (Audio played at 2:02 p.m., ending at 2:02 p.m.)
- 23 Q BY MS. CACACCIO: Who's responding to Mark?
- 24 A That's Jess Morganstrayer (phonetic throughout).
- 25 Q And is that her that whole time?

1 A Yes, it is.

2 (Audio played at 2:02 p.m., ending at 2:02 p.m.)

3 Q BY MS. CACACCIO: Who's that?

4 A Jeremy Pasquale.

5 MS. CACACCIO: We're at 11:50.

6 (Audio played at 2:02 p.m., ending at 2:03 p.m.)

7 Q BY MS. CACACCIO: Do you know who that speaker is?

8 A Tatyana Gonzalez.

9 (Audio played at 2:03 p.m., ending at 2:03 p.m.)

10 Q BY MS. CACACCIO: Who asks that or who said that?

11 A Lauren Heutmaker.

12 MS. CACACCIO: We're at 12:25.

13 (Audio played at 2:03 p.m., ending at 2:03 p.m.)

14 Q BY MS. CACACCIO: Who's that?

15 A That's still Lauren.

16 Q So I'm sorry. So who?

17 A Lauren, L-A-U-R-E-N.

18 Q Lauren. Got it. Thank you.

19 A Sure.

20 (Audio played at 2:03 p.m., ending at 2:04 p.m.)

21 Q BY MS. CACACCIO: Who -- I'm sorry.

22 (Audio played at 2:04 p.m., ending at 2:04 p.m.)

23 Q BY MS. CACACCIO: Do you know who asked that question?

24 A Can you go back?

25 (Audio played at 2:04 p.m., ending at 2:04 p.m.)

1 A I can't make that one out. I'm sorry.

2 Q BY MS. CACACCIO: Okay.

3 (Audio played at 2:04 p.m., ending at 2:05 p.m.)

4 Q BY MS. CACACCIO: Who's that?

5 A Kellen Higgins.

6 MS. CACACCIO: We're at 13:35.

7 (Audio played at 2:05 p.m., ending at 2:05 p.m.)

8 Q BY MS. CACACCIO: Who's speaking?

9 A Kellen Higgins.

10 (Audio played at 2:06 p.m., ending at 2:06 p.m.)

11 Q BY MS. CACACCIO: Who was just speaking?

12 A Kellen Higgins.

13 MS. STANLEY: We're at about 14:43.

14 Q BY MS. CACACCIO: Spell that.

15 A Kellen, K-E-L-L-E-N. Higgins, H-I-G-G -- I think he

16 spells it, I-N-S.

17 (Audio played at 2:07 p.m., ending at 2:07 p.m.)

18 Q BY MS. CACACCIO: Who is responding to Mark in that

19 conversation?

20 A That's still Kellen Higgins.

21 MS. CACACCIO: And we're at 15:13 right now.

22 (Audio played at 2:07 p.m., ending at 2:08 p.m.)

23 Q BY MS. CACACCIO: Who is speaking there?

24 A That was me.

25 (Audio played at 2:08 p.m., ending at 2:17 p.m.)

1 Q BY MS. CACACCIO: Who says, raise your hand or whatever  
2 made sense?

3 A I think that's Mark.

4 JUDGE ROSAS: Time?

5 MS. CACACCIO: 24:41, Judge.

6 (Audio played at 2:17 p.m., ending at 2:18 p.m.)

7 Q BY MS. CACACCIO: What's the hub?

8 A It's an internal communication system within Starbucks.

9 MS. CACACCIO: So that was at 25:12.

10 (Audio played at 2:18 p.m., ending at 2:18 p.m.)

11 Q BY MS. CACACCIO: Michelle (phonetic throughout), what are  
12 you talking about here?

13 A The context of the entire conversation, or that subject?

14 Q That subject, what are you talking about?

15 A It was a partner food and beverage benefit that was rolled  
16 out during the pandemic, which allowed us to come into the  
17 stores on our off days to receive free beverage and free food  
18 item, which was not typical prior to the pandemic. And they  
19 had just recently altered part of it and discontinued another  
20 part of it.

21 MS. CACACCIO: Sorry. We're at about 25:32. I'm going to  
22 hit play.

23 (Audio played at 2:19 p.m., ending at 2:19 p.m.)

24 Q BY MS. CACACCIO: Who's that?

25 A Kellen Higgins.

1 MS. CACACCIO: And we're at 25:56.

2 (Audio played at 2:19 p.m., ending at 2:26 p.m.)

3 Q BY MS. CACACCIO: Do you know who that is?

4 A Tatyana Gonzalez.

5 Q And is that who started with the question in terms of the  
6 vote?

7 A Yes. Yes.

8 Q And she's still speaking when I paused it?

9 A Correct.

10 MS. CACACCIO: So we're at 32:36.

11 Q BY MS. CACACCIO: And you said it was Tatyana Gomez?

12 A Gonzalez.

13 Q Gonzalez. I'm sorry. Thank you.

14 (Audio played at 2:26 p.m., ending at 2:27 p.m.)

15 Q BY MS. CACACCIO: Do you know who asked that?

16 A That's still Tatyana Gonzalez.

17 (Audio played at 2:27 p.m., ending at 2:27 p.m.)

18 Q BY MS. CACACCIO: Who's that?

19 A Tatyana Gonzalez.

20 (Audio played at 2:27 p.m., ending at 2:29 p.m.)

21 Q BY MS. CACACCIO: Who's that?

22 A (Indiscernible).

23 MS. CACACCIO: We're at 35:32.

24 (Audio played at 2:29 p.m., ending at 2:30 p.m.)

25 Q BY MS. CACACCIO: Who's that?



1 A That's Tatyana Gonzalez.

2 (Audio played at 2:30 p.m. --

3 Q Who's the one who interjected between them?

4 A Can I hear it again?

5 Q Sure. I think this is the one I -- I had a question about  
6 that.

7 (Audio played at 2:32 p.m., ending at 2:32 p.m.)

8 Q Nope. Hold on.

9 (Audio played at 2:33 p.m., ending at 2:33 p.m.)

10 Q What is Sedgwick?

11 A Sedgwick is a third-party -- I think it has multiple roles  
12 but it's most commonly utilized when a partner needs to take a  
13 leave of absence. And it deals with, like, short-term  
14 disability or however that's processed.

15 MS. CACACCIO: We're at 37:46.

16 (Audio played at 2:33 p.m., ending at 2:34 p.m.)

17 Q Who's that?

18 A I can't make out who it is. I'm sorry.

19 (Audio played at 2:34 p.m., ending at 2:35 p.m.)

20 Q Who said "Sophie, don't activate it"?

21 A Allyson Peck.

22 (Audio played at 2:36 p.m., ending at 2:36 p.m.)

23 Q Do you know who that is?

24 A Jeremy Pasquale.

25 (Audio played at 2:36 p.m., ending at 2:36 p.m.)

1 Q Who says that, "set the premium"?

2 A That is still Jeremy.

3 (Audio played at 2:36 p.m., ending at 2:36 p.m.)

4 Q Do know who said "they put me on, too"?

5 A Can you take it back just a bit?

6 Q Yeah. Right now, we're at 40:22, so let me try to --

7 (Audio played at 2:36 p.m., ending at 2:37 p.m.)

8 A I can't make that out. I'm sorry.

9 Q Okay.

10 (Audio played at 2:37 p.m., ending at 2:37 p.m.)

11 Q And who is talking right then, "take it out like you no  
12 longer work for Starbucks"?

13 A That is still Jeremy.

14 (Audio played at 2:37 p.m., ending at 2:37 p.m.)

15 Q Who's that?

16 A Jeremy.

17 (Audio played at 2:37 p.m., ending at 2:38 p.m.)

18 Q Who's that?

19 A That's Tatyana Gonzalez.

20 (Audio played at 2:38 p.m., ending at 2:38 p.m.)

21 MS. CACACCIO: Sorry, we were right before 41:30.

22 (Audio played at 2:38 p.m., ending at 2:39 p.m.)

23 Q BY MS. CACACCIO: Who's speaking right now?

24 A Tatyana Gonzalez.

25 MS. CACACCIO: We're at 42:26.

1 (Audio played at 2:39 p.m., ending at 2:40 p.m.)

2 Q BY MS. CACACCIO: Who's saying that?

3 A That's Emily Hirsch.

4 MS. CACACCIO: We're at 42:55.

5 (Audio played at 2:40 p.m., ending at 2:41 p.m.)

6 Q BY MS. CACACCIO: Do you know who says "insurance"?

7 A Can you take it back a little bit?

8 (Audio played at 2:41 p.m., ending at 2:41 p.m.)

9 A It's -- it's Tatyana Gonzalez who says insurance, and then  
10 that's who's speaking now.

11 MS. CACACCIO: We're at 43:50.

12 (Audio played at 2:41 p.m., ending at 2:42 p.m.)

13 Q BY MS. CACACCIO: Who's that?

14 A Jeremy.

15 (Audio played at 2:42 p.m., ending at 2:42 p.m.)

16 MS. CACACCIO: Sorry, at about 44:36.

17 (Audio played at 2:42 p.m., ending at 2:43 p.m.)

18 Q BY MS. CACACCIO: Do you know who that is?

19 A Yes, that's Myke, M-Y-K-E, Gollwi -- Gollwitzer. I don't  
20 know how to pronounce his last name.

21 Q Who is -- who is Myke?

22 A He's a partner at Elmwood.

23 MS. CACACCIO: We're at 45:34.

24 (Audio played at 2:43 p.m., ending at 2:44 p.m.)

25 Q BY MS. CACACCIO: Who is answering him?

1 A Allyson Peck.

2 (Audio played at 2:44 p.m., ending at 2:44 p.m.)

3 Q Who's saying that?

4 A That's still Myke.

5 MS. CACACCIO: We're at 46:13.

6 (Audio played at 2:44 p.m., ending at 2:45 p.m.)

7 Q BY MS. CACACCIO: Do you know who that is?

8 A Tatyana Gonzalez.

9 MS. CACACCIO: We're at 46:43.

10 (Audio played at 2:45 p.m., ending at 2:45 p.m.)

11 Q BY MS. CACACCIO: Who -- and who says "Starbucks is trying

12 to increase the pay?"

13 A That's still Tatyana Gonzalez.

14 MS. CACACCIO: Is that the one you wanted, Jackie

15 (phonetic throughout)?

16 MS. POLITO: Yeah, was there another -- a gentleman's

17 voice?

18 THE WITNESS: That's still Myke --

19 MS. POLITO: Myke.

20 THE WITNESS: -- and Tatyana going back and forth.

21 MS. POLITO: Thank you.

22 MS. CACACCIO: We're at 47:17.

23 (Audio played at 2:46 p.m., ending at 2:46 p.m.)

24 Q BY MS. CACACCIO: Who's that that?

25 A That's Jaz Brisack.

1 (Audio played at 2:46 p.m., ending at 2:46 p.m.)

2 MS. CACACCIO: Sorry. We're at 47:30.

3 (Audio played at 2:46 p.m., ending at 2:48 p.m.)

4 Q BY MS. CACACCIO: Who's that?

5 A Allyson Peck.

6 MS. CACACCIO: We're at 49:30.

7 (Audio played at 2:48 p.m., ending at 2:48 p.m.)

8 Q BY MS. CACACCIO: Do you know who that is?

9 A Tatyana Gonzalez.

10 MS. CACACCIO: We're at 49:25.

11 (Audio played at 2:48 p.m., ending at 2:49 p.m.)

12 Q BY MS. CACACCIO: Do you know who that is?

13 A That's Jeremy.

14 (Audio played at 2:49 p.m., ending at 2:50 p.m.)

15 Q BY MS. CACACCIO: Do you know who that is?

16 A That's Allyson Peck.

17 MS. CACACCIO: We're at 51:16.

18 (Audio played at 2:50 p.m., ending at 2:50 p.m.)

19 Q BY MS. CACACCIO: Who's that?

20 A Courtney Stroeher.

21 MS. CACACCIO: We're at 51:22.

22 (Audio played at 2:50 p.m., ending at 2:52 p.m.)

23 Q BY MS. CACACCIO: Do you know who that is?

24 A That's LaRue Heutmaker.

25 MS. CACACCIO: We're at 52:44.

1 (Audio played at 2:52 p.m., ending at 2:53 p.m.)

2 MS. CACACCIO: Can we go off the record?

3 (Off the record at 2:53 p.m.)

4 MS. CACACCIO: We paused at 53:19, so I'm going to hit  
5 play.

6 (Audio played at 3:00 p.m., ending at 3:05 p.m.)

7 **RESUMED DIRECT EXAMINATION**

8 Q BY MS. CACACCIO: Who's that?

9 A That's Myke.

10 MS. CACACCIO: Sorry, we're at 58.

11 (Audio played at 3:05 p.m., ending at 3:05 p.m.)

12 Q BY MS. CACACCIO: Who says, "we got to pay shit"?

13 A I don't know what that -- who that is, I'm sorry.

14 (Audio played at 3:05 p.m., ending at 3:05 p.m.)

15 Q BY MS. STANLEY: Who were you talking to?

16 A I asked Jaz what she was about to say, but then the voice  
17 that comes in is actually Tatyana.

18 Q You said Jaz?

19 A Jaz, yeah, J-A-Z.

20 (Audio played at 3:05 p.m., ending at 3:05 p.m.)

21 Q BY MS. CACACCIO: So who's that?

22 A That's Tatyana Gonzalez.

23 MS. CACACCIO: We're at 58:32.

24 (Audio played at 3:06 p.m., ending at 3:06 p.m.)

25 Q BY MS. CACACCIO: What's the Third Place?

1 A The Third Place is a term that Starbucks uses to refer to  
2 its stores in regards to how its customers view it. Your first  
3 place is supposed to be your home. Your second place is your  
4 job, and then the third place is supposed to be Starbucks.

5 MS. CACACCIO: We're at 59:18.

6 (Audio played at 3:07 p.m., ending at 3:07 p.m.)

7 Q BY MS. CACACCIO: Who is that?

8 A Tatyana Gonzalez.

9 (Audio played at 3:07 p.m., ending at 3:07 p.m.)

10 Q BY MS. CACACCIO: Who's that right now?

11 A Still Tatyana Gonzalez.

12 Q We're at 59:51.

13 (Audio played at 3:07 p.m., ending at 3:08 p.m.)

14 Q BY MS. CACACCIO: Who's saying this is my house?

15 A Tatyana Gonzalez.

16 (Audio played at 3:08 p.m., ending at 3:08 p.m.)

17 Q BY MS. CACACCIO: Who are you referencing there?

18 A Jaz, J-A-Z.

19 Q That was about 1:00:34 roughly.

20 (Audio played at 3:08 p.m., ending at 3:08 p.m.)

21 Q BY MS. CACACCIO: Who's talking there?

22 A Jaz Brisack.

23 Q We're at 1:00:40.

24 (Audio played at 3:08 p.m., ending at 3:11 p.m.)

25 Q BY MS. CACACCIO: Who's talking right there?

1 A Tatyana Gonzalez.

2 Q We're at 1:02:55.

3 (Audio played at 3:11 p.m., ending at 3:11 p.m.)

4 Q BY MS. CACACCIO: Who says that?

5 A LaRue Heutmaker.

6 Q 1:03:36.

7 (Audio played at 3:12 p.m., ending at 3:12 p.m.)

8 Q BY MS. CACACCIO: Who said put out a fire?

9 A Tatyana Gonzalez.

10 Q We're at 1:04:07.

11 (Audio played at 3:12 p.m., ending at 3:12 p.m.)

12 Q BY MS. CACACCIO: Who's responding? Who's talking right

13 now?

14 A Allyson Peck.

15 Q We're 1:04:20.

16 (Audio played at 3:12 p.m., ending at 3:13 p.m.)

17 Q BY MS. CACACCIO: Who's talking right there?

18 A Can you just take that back a little bit?

19 (Audio played at 3:13 p.m., ending at 3:13 p.m.)

20 Q BY MS. CACACCIO: Who's that?

21 A Emily Hirsch.

22 Q We're at 1:04:53.

23 (Audio played at 3:13 p.m., ending at 3:14 p.m.)

24 Q BY MS. CACACCIO: Who's talking there?

25 A That was Emily Hirsch and then overheard a little bit was



1 Tatyana Gonzalez.

2 (Audio played at 3:14 p.m., ending at 3:14 p.m.)

3 Q BY MS. CACACCIO: Do you know who that is?

4 A That -- her name is Erin (phonetic throughout). I can't  
5 remember her last name. She was a displaced partner after the  
6 Walton Galleria closing.

7 Q We're at 1:05:34. At some point, you remember her last  
8 name, let us know.

9 A I will.

10 (Audio played at 3:14 p.m., ending at 3:16 p.m.)

11 Q BY MS. CACACCIO: Who's talking there?

12 A That's still Erin.

13 Q We're 1:07:14.

14 (Audio played at 3:16 p.m., ending at 3:17 p.m.)

15 Q BY MS. CACACCIO: Michelle, who's talking right there?

16 A That's Shariah Lyons, L-Y-O-N-S.

17 Q We're at 1:07:42.

18 MS. POLITO: What was the first name?

19 THE WITNESS: Shariah, S-H-A-R-I-A-H.

20 MS. POLITO: Thank you.

21 (Audio played at 3:17 p.m., ending at 3:17 p.m.)

22 Q BY MS. CACACCIO: Who's talking right there?

23 A That's Erin again.

24 Q We're at 1:08:14.

25 (Audio played at 3:18 p.m., ending at 3:18 p.m.)

1 Q BY MS. CACACCIO: You know who that is?

2 A Jeremy.

3 (Audio played at 3:18 p.m., ending at 3:18 p.m.)

4 Q BY MS. CACACCIO: Who is that?

5 A That's Erin.

6 Q We're at 1:08:47.

7 (Audio played at 3:18 p.m., ending at 3:18 p.m.)

8 Q BY MS. CACACCIO: Do you know who Robert (phonetic  
9 throughout) is that they're talking about?

10 A I believe Robert is the store manager from the Delaware --  
11 was the store manager at the Delaware and Chippewa store at the  
12 time.

13 Q We're at 1:09:01.

14 (Audio played at 3:19 p.m., ending at 3:20 p.m.)

15 Q BY MS. CACACCIO: Who were the -- who did you just say?

16 A Who were the names I just mentioned?

17 Q Yep.

18 A Jaz and LaRue.

19 Q We're at 1:09:49.

20 (Audio played at 3:20 p.m., ending at 3:21 p.m.)

21 Q BY MS. CACACCIO: Who says that?

22 A Can you take it back and then I'll be able to tell you?

23 (Audio played at 3:21 p.m., ending at 3:22 p.m.)

24 A I think it's Jaz, but I can't be certain.

25 Q BY MS. CACACCIO: So 1:11:26.

1 (Audio played at 3:22 p.m., ending at 3:22 p.m.)

2 Q BY MS. CACACCIO: Do you know who that is?

3 A I think that's Tatyana Gonzalez.

4 Q That's at 1:11:35.

5 (Audio played at 3:22 p.m., ending at 3:27 p.m.)

6 Q BY MS. CACACCIO: Who are you talking to?

7 A Who just started speaking?

8 Q Yeah.

9 A (b) (6), (b) (7)(C) .

10 Q We're at 1:16:04. And who's (b) (6), (b) (7)(C) ?

11 A (b) (6), (b) (7)(C) a partner at Elmwood.

12 (Audio played at 3:27 p.m., ending at 3:28 p.m.)

13 Q BY MS. CACACCIO: Who's talking right now?

14 A Allyson Peck.

15 Q We're at 1:17:16.

16 (Audio played at 3:28 p.m., ending at 3:29 p.m.)

17 Q BY MS. CACACCIO: Who's asking now?

18 A (b) (6), (b) (7)(C) .

19 Q We're at 1:17:54.

20 (Audio played at 3:29 p.m., ending at 3:31 p.m.)

21 Q BY MS. CACACCIO: Who's that?

22 A That's Erin again.

23 Q We're at 1:19:45.

24 (Audio played at 3:31 p.m., ending at 3:31 p.m.)

25 Q BY MS. CACACCIO: Who's talking right now?

1 A Mark.

2 Q We're at 1:20:17.

3 (Audio played at 3:31 p.m., ending at 3:34 p.m.)

4 Q BY MS. CACACCIO: Who's that?

5 A Allyson Peck.

6 Q We're at 1:22:27.

7 (Audio played at 3:34 p.m., ending at 3:34 p.m.)

8 Q BY MS. CACACCIO: Do you know who that is?

9 A Can I just listen to it a little bit longer?

10 Q We're at 1:22:51.

11 (Audio played at 3:34 p.m., ending at 3:34 p.m.)

12 A I think that's Shariah Lyons.

13 Q We're at 1:23:01.

14 (Audio played at 3:34 p.m., ending at 3:35 p.m.)

15 Q BY MS. CACACCIO: Do you know who it is?

16 A That is Shariah Lyons, yes.

17 Q We're at 1:23:18.

18 (Audio played at 3:35 p.m., ending at 3:36 p.m.)

19 Q BY MS. CACACCIO: Do you know who says that about  
20 townhouses?

21 A I'm pretty sure that's Jeremy.

22 Q We're at 1:24:19.

23 (Audio played at 3:36 p.m., ending at 3:36 p.m.)

24 Q BY MS. CACACCIO: Do you know who's talking right now?

25 A Shariah Lyons.

1 Q We're at 1:24:37.

2 (Audio played at 3:36 p.m., ending at 3:37 p.m.)

3 Q Can you say who that is?

4 (Audio ending at 3:37 p.m.)

5 Q Do you know who that was?

6 A I think that's still Shariah, but may you take it back  
7 just a minute?

8 Q Yep.

9 (Audio played at 3:37 p.m., ending at 3:38 p.m.)

10 Q Who's talking right now?

11 A I don't know who says, "I think this is our". I'm not  
12 sure who that is. And -- and Shariah picks back up.

13 MS. CACACCIO: We're at 1:25:39.

14 (Audio played at 3:38 p.m., ending at 3:39 p.m.)

15 Q BY MS. CACACCIO: Do you know who says, "It's a waste of  
16 time"?

17 A The voice before that is Myke, and if you can let me hear  
18 "It's a waste of time" one more time, I can probably figure  
19 that out.

20 (Audio played at 3:39 p.m., ending at 3:39 p.m.)

21 A I think that's Emily Hirsch.

22 (Audio played at 3:39 p.m., ending at 3:40 p.m.)

23 Q Who's that?

24 A Tatyana Gonzalez.

25 MS. CACACCIO: We're at 1:26:36.

1 (Audio played at 3:40 p.m., ending at 3:41 p.m.)

2 Q BY MS. CACACCIO: Who starts talking at "I'm not doing  
3 that"?

4 A That's still Tatyana.

5 MS. CACACCIO: We're at 1:27:29.

6 (Audio played at 3:41 p.m., ending at 3:41 p.m.)

7 Q BY MS. CACACCIO: What who just said? Do you know what --  
8 what name she said?

9 A She said, "because of what y'all just said".

10 Q Okay.

11 (Audio played at 3:42 p.m., ending at 3:42 p.m.)

12 Q Who said they were not in the queue?

13 A That, I believe, was LaRue.

14 MS. CACACCIO: That's, like, at around 1:28:45.

15 (Audio played at 3:43 p.m., ending at 3:43 p.m.)

16 Q BY MS. CACACCIO: Do you know who that is?

17 A Tatyana Gonzalez.

18 MS. CACACCIO: 1:29:02.

19 (Audio played at 3:43 p.m., ending at 3:43 p.m.)

20 Q BY MS. CACACCIO: Do you know what she said -- what store  
21 she said there?

22 A She was previously at the Delaware and Kenmore location.

23 MS. CACACCIO: That's at 1:29:17.

24 (Audio played at 3:43 p.m., ending at 3:44 p.m.)

25 Q BY MS. CACACCIO: Who's that?

1       A       That's LaRue.

2               MS. CACACCIO:  We're at 1:29:50.

3       (Audio played at 3:44 p.m., ending at 3:44 p.m.)

4       Q       BY MS. CACACCIO:  Who's that?  "Yeah, so that's an issue"?

5       A       That's still LaRue.

6               MS. CACACCIO:  We're at 1:30:13.

7       (Audio played at 3:44 p.m., ending at 3:45 p.m.)

8       Q       BY MS. CACACCIO:  Who's that?

9       A       I believe that's Jayden Davis.

10              MS. CACACCIO:  We're at 1:30:46.

11      Q       BY MS. CACACCIO:  And who's Jayden Davis?

12      A       Another partner at Elmwood.

13      Q       Do you know how to spell "Jayden"?

14      A       J-A-Y-D-E-N.

15      (Audio played at 3:45 p.m., ending at 3:45 p.m.)

16      Q       Is that -- who was that?

17      A       That's still Jayden.

18              MS. CACACCIO:  We're at 1:30:55.

19      (Audio played at 3:45 p.m., ending at 3:46 p.m.)

20      Q       BY MS. CACACCIO:  Who's talking right now?

21      A       Jayden.

22              MS. CACACCIO:  We're at 1:31:05.

23      (Audio played at 3:46 p.m., ending at 3:47 p.m.)

24      Q       BY MS. CACACCIO:  Who was asking that?

25      A       That's Allyson Peck.

1 MS. CACACCIO: We're at 1:32:27.

2 (Audio played at 3:47 p.m., ending at 3:47 p.m.)

3 Q BY MS. CACACCIO: Who's talking right now?

4 A Jaz Brisack.

5 MS. CACACCIO: We're at 1:32:45.

6 (Audio played at 3:47 p.m., ending at 3:48 p.m.)

7 Q BY MS. CACACCIO: Who's that?

8 A Allyson Peck.

9 MS. CACACCIO: We're at 1:33:32.

10 (Audio played at 3:48 p.m., ending at 3:49 p.m.)

11 Q BY MS. CACACCIO: Who's responding to you?

12 A That's me speaking. Are you asking who's talking over me?

13 Q Yeah.

14 A Can you take it back so I can try to hear it?

15 Q Yep.

16 (Audio played at 3:49 p.m., ending at 3:49 p.m.)

17 Q I went too far. (Indiscernible, simultaneous speech)

18 A (Indiscernible, simultaneous speech)

19 Q Yeah, yeah. Okay.

20 (Audio played at 3:49 p.m., ending at 3:50 p.m.)

21 A That was Kellen Higgins.

22 MS. CACACCIO: We're at about 1:34:05.

23 (Audio played at 3:50 p.m., ending at 3:51 p.m.)

24 Q BY MS. CACACCIO: Who said, "That's kind of disruptive"?

25 A Can you take it back?



1 Q Yep.

2 (Audio played at 3:51 p.m., ending at 3:52 p.m.)

3 A That's Emily Hirsch.

4 MS. CACACCIO: We're at 1:34:57.

5 (Audio played at 3:52 p.m., ending at 3:52 p.m.)

6 MS. CACACCIO: So that's the end of the transcription, but  
7 there's another, like, roughly four minutes of recording.

8 Would you like me to play it?

9 (Audio played at 3:52 p.m., ending at 3:55 p.m.)

10 Q BY MS. CACACCIO: Who's saying that?

11 A That's LaRue Heutmaker.

12 Q Who's she talking to?

13 A Me.

14 MS. CACACCIO: 1:37:51.

15 (Audio played at 3:55 p.m., ending at 3:57 p.m.)

16 MS. CACACCIO: That's the end of the recording.

17 Q BY MS. CACACCIO: Is this your full recording, as you  
18 remember having made it?

19 A Yes, it is.

20 Q Is that the meeting as you remember having attended it?

21 A Yes, it is.

22 Q Is -- was it changed or altered in any way?

23 A It was not.

24 MS. CACACCIO: Your Honor, I now offer General Counsel's  
25 Exhibit 28(a), which is the recording, and I will be offering

1 28(b) when we've had a chance to make certain changes to the  
2 transcript.

3 MS. POLITO: Judge, same objection as earlier, with  
4 respect to the audio recording. And with respect to 28(b), the  
5 same objection with respect to 27(b). It is entitled "Employer  
6 Captive Audience Meeting", which is a legal assertion by the  
7 Board, and there is no evidence in the record that it was an  
8 employer captive audience meeting. So that should be stricken  
9 from the transcript.

10 And the transcript should be a full and complete  
11 transcript. It's clear that this transcript is not a full and  
12 complete transcript. And so we ask that the -- if the judge is  
13 inclined to allow this into evidence, that with respect to the  
14 transcripts today, that a transcriptionist review the entire  
15 transcript and we be provided with a complete copy.

16 MS. CACACCIO: Your Honor, General Counsel objects to  
17 that. If Respondent wants to make a transcript, they're more  
18 than welcome to do so. It's not on the General Counsel to do  
19 that. The portions of the transcript that are relevant are in  
20 front of us.

21 JUDGE ROSAS: So there were a couple of components to  
22 that. Yes, change the --

23 MS. CACACCIO: Yes, Your Honor.

24 JUDGE ROSAS: -- change the description --

25 MS. POLITO: Yes.

1 JUDGE ROSAS: -- a nondescript transcription of meeting on  
2 October 1st, 2021. The request that the General Counsel add to  
3 the transcription with the portion before and after that are  
4 not -- that are transcribed -- that -- that is denied, as the  
5 Respondent can provide those if -- if it likes. It can provide  
6 its version. So I'm going to overrule the objection. General  
7 Counsel's 28(a) and 28(b) -- 28(a) is received in evidence, and  
8 28(b) will be revised and submitted for consideration.

9 **(General Counsel Exhibit Number 28(a) Received into Evidence)**

10 JUDGE ROSAS: All right. Off the record for five minutes.  
11 (Off the record at 3:59 p.m.)

12 **RESUMED DIRECT EXAMINATION**

13 Q BY MS. CACACCIO: Michelle, the meeting that you attended  
14 on September 19th -- what, if anything, were you told about  
15 your attendance at that meeting?

16 A We were -- I was asked to take one of the three time slots  
17 that was offered.

18 MS. POLITO: Objection. Asked and answered earlier.

19 JUDGE ROSAS: Sustained.

20 Rephrase your next question relating to that, if you want  
21 to pick up on that.

22 Q BY MS. CACACCIO: Do you know if it was mandator -- what  
23 did you think about whether it was mandatory or voluntary?

24 A I --

25 MS. POLITO: Objection. Asked and answered.

1 JUDGE ROSAS: You can clarify whether it was mandated.

2 Overruled.

3 A I thought that it was mandated.

4 Q BY MS. CACACCIO: And what about the meeting on October  
5 1st? Did they -- did anyone tell you anything about whether  
6 attendance was required at that meeting?

7 A It was posted on the fridge, and I -- we were told that we  
8 needed to attend it. I assumed it was mandatory.

9 Q And were you paid for attending the meeting on September  
10 19th?

11 A I was.

12 Q And were you paid for attending the meeting on October  
13 1st?

14 A I was.

15 Q You had mentioned the store was closed on October 1st for  
16 this meeting. Were you supposed to be working that day?

17 A I was not scheduled for that day, no.

18 MS. CACACCIO: And I -- I understand this is going to  
19 sound like (indiscernible), but I'm going to lay the foundation  
20 for it, so I don't have to play it right now.

21 Q BY MS. CACACCIO: When was the next session you attended  
22 after October 1st?

23 A Wednesday, October 20th, I believe.

24 Q And how did you hear about that meeting?

25 A That was delivered as an invitation in an envelope with my

1 name on it by one of the support managers.

2 Q And who gave you -- do you remember which support manager  
3 it was?

4 A I think it was Matt.

5 Q And what did Matt say?

6 A He said, here, Michelle, this is for you.

7 Q And what did you do with it?

8 A I opened it. It was a sheet of paper that had me  
9 scheduled for an 8 p.m. meeting on Wednesday, October 20th. It  
10 also stated that, if I was unable to attend that meeting, that  
11 there were two make-up sessions the following Saturday; that I  
12 should pick one of those if I couldn't attend the one on  
13 Wednesday.

14 Q And where was the location supposed to be?

15 A This was at another hotel conference room -- the hotel on  
16 the corner of Delaware and Chippewa that is not the Westin.  
17 I -- I don't -- I'm not sure what it is. Maybe the Hyatt.

18 Q Did they say anything about whether attendance was  
19 required at this meeting?

20 A I was handed an invitation that had it already scheduled,  
21 so I assumed it was mandatory.

22 Q Did you attend -- when were the scheduled times?

23 A The -- the letter I was given only had one time slot  
24 listed, which was the time slot for myself. I was able to find  
25 out from other partners that there were two additional time

1 slots also that day.

2 Q Did -- did you attend your scheduled time slot?

3 A I did not.

4 Q Oh. What time slot did you attend?

5 A I went to the 6 p.m., I believe.

6 Q And what time were you scheduled for?

7 A The 8 p.m.

8 Q And do you know what the other scheduled time was?

9 A I believe it was 4 p.m.

10 Q Now, would the store usually be open during the time slot  
11 that these meetings were held?

12 A Yes.

13 Q Do you know whether the store was open that day?

14 A I do not believe that it was, at least not during that --  
15 those time periods.

16 Q Do you know when the store was supposed to be open?

17 A If it was a Wednesday, it probably would have been -- I  
18 think we closed at 9:30 at that point.

19 Q So what time would the store have closed?

20 A I think it closed at 3 p.m. or an hour prior to the first  
21 time slot.

22 Q And who ran this meeting?

23 A This one was Allyson Peck, Ana Gutierrez, and Nathalie --  
24 I'm going to pronounce her last name incorrectly -- it's, like,  
25 Cioffi or something, C-O-I-F-F-I (sic).

1 Q How many employees attended this meeting?

2 A This was small. I think there was only four of us.

3 Q And what employees were those?

4 A If I'm remembering correctly, it was myself, Angela  
5 Dudzic, LaRue Heutmaker, and Tatyana Gonzalez.

6 Q Where did those employees work?

7 A At the Elmwood location.

8 Q How long did this meeting last?

9 A About an hour.

10 Q Did you record it?

11 A I did.

12 Q How did you record it?

13 A On my Apple Watch.

14 Q And what did you do after you recorded it?

15 A It was sent to our attorney, Ian Hayes.

16 Q Did you alter it in any way?

17 A I did not.

18 Q Did you record the entire meeting?

19 A I did.

20 Q And if I play it, could you identify it?

21 A Yes, I could.

22 MS. CACACCIO: Your Honor, I'm going to not do that right  
23 now, given what Respondent's counsel has said. I'm going to  
24 skip ahead. This will -- this will be recording 29(a), with  
25 the transcript of 29(b). Is everyone okay with that?

1 JUDGE ROSAS: You've provided that to counsel?

2 MS. CACACCIO: Yes, Judge.

3 JUDGE ROSAS: Okay. All right. Let's go off the record.

4 (Off the record at 4:21 p.m.)

5 **RESUMED DIRECT EXAMINATION**

6 Q BY MS. CACACCIO: Did you attend any meetings after the  
7 one you attended on October 20th?

8 A No, I did not.

9 Q Were there any scheduled meetings that you knew about?

10 A Yes. There was one scheduled for Monday, November 8th.

11 Q What do you know about that meeting?

12 A There were two time slots scheduled. One, I believe, was  
13 5:30, and the other was again 8 p.m. I was scheduled for the 8  
14 p.m. meeting, and I chose to try to attend the -- the earlier  
15 meeting.

16 Q How did you hear about this meeting?

17 A It was presented the same way as the previous one, with  
18 a -- a letter that was given to me.

19 Q And what did the letter look like?

20 A It -- it was exactly the same as the other one. It was --  
21 you know, my name was on it. It said that I was being asked to  
22 attend a listening session. It -- it listed the -- the date  
23 and time and location for that listening session.

24 Q Who gave you the invitation?

25 A It was again handed to me by another support manager. It



1     could have been Matt again, or it might have been Dustin.

2     Q     Did it say anything about whether attendance was required?

3     A     No, but as with the first one, it was given to me as a  
4     scheduled time, and I assumed it was mandated.

5     Q     Did this one -- was there anything about a make-up  
6     session?

7     A     Not on this one, no. Oh, I'm sorry. Let me go back.  
8     There was a make-up session scheduled for Tuesday afternoon,  
9     the 9th.

10    Q     Where was this meeting held?

11    A     The one on the 8th was held at the Elmwood location.

12    Q     And where was the make-up session supposed to be?

13    A     It was in a hotel conference room. I don't know if it was  
14    the Westin or the -- the one across the street from it.

15    Q     Now, would the store usually be open during the time this  
16    meeting was scheduled?

17    A     Yes, it would.

18    Q     Was it open?

19    A     It was not.

20    Q     And what time did it close?

21    A     The first session was scheduled for, I think, 5:30, so  
22    probably an hour before that.

23    Q     Now, you said you didn't actually attend this meeting.  
24    What happened?

25    A     I showed up and parked in the back parking lot, walked up

1 to the backdoor, which was locked. Kelly, the support -- I  
2 believe it was Kelly, the support district manager -- let me  
3 in. Deanna was standing at a high-top table that they had slid  
4 over to be near that doorway. She was checking people in. She  
5 stated that she had me scheduled --

6 Q Well, be -- before we do that, did you record this  
7 interaction?

8 A I did, yes.

9 Q And how did you record it?

10 A On my Apple Watch.

11 Q And who was with you?

12 A I walked in with Natalie Wittmeyer and Cassie Fleischer.

13 Q And what did you do with the recording once you made it?

14 A I sent it to Ian Hayes, our attorney.

15 Q And did you alter it in any way?

16 A I did not.

17 Q And what is the -- well, we'll say that --

18 MS. CACACCIO: So Your Honor, that's my foundation for  
19 this particular line of questioning.

20 JUDGE ROSAS: And what are they --

21 MS. CACACCIO: It's going to be recording 30(a), with  
22 transcript 30(b). And before we take a brief break, which I  
23 think we're about to do --

24 Q BY MS. CACACCIO: The meeting on October 20th -- bouncing  
25 back -- sorry, Michelle -- were you paid to attend that



1 meeting?

2 A Yes, I was.

3 MS. CACACCIO: So if opposing counsel needs a break, we  
4 can take one now if you'd like.

5 JUDGE ROSAS: Okay. All right. Off the record.

6 (Off the record at 4:26 p.m.)

7 **RESUMED DIRECT EXAMINATION**

8 Q BY MS. CACACCIO: Ms. Eisen, we're looking at -- or we're  
9 listening to the recording that you made from what you  
10 testified to as November 8th. And I'm going to play it now.  
11 It's eight minutes and 40 seconds in length.

12 MS. CACACCIO: Were people using the time on the screen in  
13 front of you? Was that being helpful to you?

14 MS. POLITO: We were.

15 MS. CACACCIO: Okay. Don't -- don't touch it. Let me --  
16 it's me.

17 MS. POLITO: It's not the end of the world if, for this  
18 one --

19 MS. CACACCIO: Okay. I unplugged it. I just -- I think I  
20 can plug it back in. If it wasn't helpful to anyone, I wasn't  
21 going to show it. Okay.

22 (Audio played at 4:46 p.m., ending at 4:47 p.m.)

23 Q BY MS. CACACCIO: Who was that? Who's speaking?

24 A That's me. I'm saying hi to Natalie Wittmeyer.

25 MS. CACACCIO: And that's at 19 seconds into the

1 recording.

2 (Audio played at 4:47 p.m., ending at 4:47 p.m.)

3 Q BY MS. CACACCIO: I'm sorry. Did you say Natalie's last  
4 name?

5 A Wittmeyer.

6 (Audio played at 4:47 p.m., ending at 4:47 p.m.)

7 Q Who'd you get off the phone with?

8 A Jaz.

9 MS. CACACCIO: We're at 33 seconds.

10 (Audio played at 4:47 p.m., ending at 4:47 p.m.)

11 Q Who said that?

12 A Natalie.

13 Q Was anyone else with you in this conversation?

14 A Not at this moment, no.

15 MS. CACACCIO: We're at 41 seconds.

16 (Audio played at 4:47 p.m., ending at 4:48 p.m.)

17 Q BY MS. CACACCIO: Who's that?

18 A I'm looking in the store, and I saw a new partner named  
19 Courtlyn (phonetic throughout).

20 MS. CACACCIO: It's playing. That's at 57 seconds.

21 (Audio played at 4:48 p.m., ending at 4:48 p.m.)

22 Q BY MS. CACACCIO: Who was -- who's that?

23 A That's Deanna.

24 MS. CACACCIO: And we're at 1:06.

25 (Audio played at 4:48 p.m., ending at 4:48 p.m.)

1 Q BY MS. CACACCIO: Who said that to you?

2 A That's still Deanna Pusatier.

3 MS. CACACCIO: We're at 1:18.

4 (Audio played at 4:48 p.m., ending at 4:49 p.m.)

5 Q BY MS. CACACCIO: Who says that?

6 A Can you take it back, and I'll be able to tell you?

7 (Audio played at 4:49 p.m., ending at 4:49 p.m.)

8 A I -- I think that that is Allyson Peck.

9 (Audio played at 4:49 p.m., ending at 4:49 p.m.)

10 Q Who -- who said that we scheduled it to keep it a smaller  
11 group?

12 A I think -- I actually do not know who that is.

13 Q Who was -- and who -- who were you talking to at this  
14 point?

15 A I was talking to Deanna, who was standing at the doorway.

16 Q Was there anyone else there?

17 A Kelly, the support GM was there. I'm sure that there were  
18 a couple of other people. Dustin, our support manager, was  
19 also there. This was prior to any start of the meeting, so  
20 nobody's in the station slot. They're just kind of walking  
21 about the lobby of the store.

22 MS. CACACCIO: We're at 2:07.

23 (Audio played at 4:50 p.m., ending at 4:50 p.m.)

24 Q BY MS. CACACCIO: Who said, "We'll do a one-on-one"?

25 A That should be Deanna.

1 MS. CACACCIO: We're at 2:19.

2 (Audio played at 4:50 p.m., ending at 4:51 p.m.)

3 Q BY MS. CACACCIO: Who said, "We'll do a one-on-one"?

4 A Deanna.

5 MS. CACACCIO: We're at 2:51.

6 (Audio played at 4:51 p.m., ending at 4:51 p.m.)

7 Q BY MS. CACACCIO: Who says, "We don't know that we are  
8 yet"?

9 A That should be Deanna, as well.

10 MS. CACACCIO: We're at 3:05.

11 (Audio played at 4:51 p.m., ending at 4:51 p.m.)

12 Q BY MS. CACACCIO: Who says -- who said that?

13 A I don't know.

14 (Audio played at 4:52 p.m., ending at 4:52 p.m.)

15 A I don't know who that is.

16 MS. CACACCIO: We're at 3:16.

17 (Audio played at 4:52 p.m., ending at 4:52 p.m.)

18 Q BY MS. CACACCIO: Who are you calling?

19 A I'm calling Jaz Brisack.

20 MS. CACACCIO: We're at 3:44.

21 (Audio played at 4:52 p.m., ending at 4:53 p.m.)

22 Q BY MS. CACACCIO: Who said they're going to get started?

23 A Deanna.

24 MS. CACACCIO: We're at 4:26.

25 (Audio played at 4:53 p.m., ending at 4:54 p.m.)

1 Q BY MS. CACACCIO: Who are you talking to?

2 A I'm on the phone with Jaz.

3 (Audio played at 4:54 p.m., ending at 4:55 p.m.)

4 Q Who were you talking to there?

5 A Cassie.

6 MS. CACACCIO: We're at six minutes.

7 (Audio played at 4:55 p.m., ending at 4:57 p.m.)

8 Q BY MS. CACACCIO: Is that the recording you remember  
9 making?

10 A Yes, it is.

11 Q And was it true and correct?

12 A Yes, it was.

13 Q Did you make any edit to that recording?

14 A I did not.

15 Q Is that the interaction as you remember it happening?

16 A It is.

17 MS. CACACCIO: Your Honor, I now offer General Counsel's  
18 Exhibit 30(a), which is the recording, and will offer 30(b)  
19 with amendments.

20 MS. POLITO: Judge, I believe we have a standing objection  
21 to that audio recording, and this transcript does not have that  
22 language on it, so other than that same objection with respect  
23 to the transcript.

24 JUDGE ROSAS: Okay. General Counsel's 30(a) will be  
25 received over objection, and General Counsel's 30(b) will be

1 revised for submission but is otherwise in evidence.

2 **(General Counsel Exhibit Number 30(a) Received into Evidence)**

3 JUDGE ROSAS: Okay. Anything else?

4 MS. CACACCIO: Just a second, if we can.

5 Q BY MS. CACACCIO: Michelle, why were you so upset at  
6 this -- at this interaction?

7 A This was the first time I had been told I wasn't allowed  
8 to attend a meeting at -- with my -- my partners from my store.

9 Q Did you personally attend any other meetings and listening  
10 sessions put on by the Respondent about the union?

11 A After this date?

12 Q Yes.

13 A No, I did not.

14 MS. CACACCIO: Your Honor, when would you like to stop for  
15 today? It's -- it's 5:00.

16 JUDGE ROSAS: You're done; otherwise, you'd be going into  
17 the next video?

18 MS. CACACCIO: Well, I'd like to go back --

19 JUDGE ROSAS: Audio?

20 MS. CACACCIO: -- to that video. Yeah, I do -- I do -- or  
21 audio. Sorry.

22 JUDGE ROSAS: Okay.

23 MS. CACACCIO: I do have other questions, but I know you  
24 said we wanted to --

25 JUDGE ROSAS: Okay. So we'll adjourn at this point.





1 We'll reconvene tomorrow at 9 a.m. Off the record.

2 **(Whereupon, the hearing in the above-entitled matter was**

3 **recessed at 4:59 p.m. until Wednesday, July 13, 2022 at 9:00**

4 **a.m.)**

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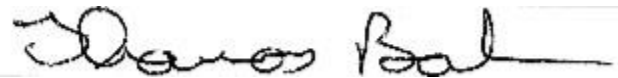
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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 3, Case Number 03-CA-285671, et al., Starbucks Corporation, Charging Party, and Workers United, Employer., held at the National Labor Relations Board, Region , Region 3, Robert H. Jackson United States Courthouse, Wyoming (5E) Courtroom, 2 Niagara Square, Buffalo, Buffalo, New York 14202, on July 12, 2022, at 9:01 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



THOMAS BAKER

Official Reporter